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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

PRAYER

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

Let us pray:

O God, who loves us throughout the seasons of our years, set our Senators today on a path where they will grow in wisdom and in kindness. Make them wise enough to remember the poor and needy in our land and kind enough to find creative ways of touching hurting lives.

Help them to be wise enough to forgive others as You have forgiven them and kind enough to find ways to bless those who despitefully use them.

Lord, empower them to be wise enough to seek Your solutions to their complex problems and kind enough to express gratitude to You, the giver of every good and perfect gift.

Give them wisdom to find ways to bring peace out of conflict, light out of darkness, and hope out of despair. Then infuse them with a kindness that will motivate them to seek to serve others to the glory of Your Name.

In all their strivings, enable them to live as wise and kind ambassadors of Your purposes.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 20, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, this morning, the Senate will immediately resume consideration of the U.S. attorneys legislation, S. 214, and conclude the final 90 minutes of debate on this issue.

At approximately 11:30, there will be three rollcall votes to complete action on the bill: Votes on two amendments and then passage of the bill.

At the conclusion of ordering passage on the bill, the Senate will recess for our weekly work conferences.

Following the caucus lunch, we will begin consideration of the budget resolution. Yesterday, I was going to ask unanimous consent to begin at 2:15, but I was informed there might be a request for a rollcall vote on the motion to proceed. That is a nondebatable motion, so we will vote immediately at 2:15 on that matter.

As far as the Democrats' time on this matter, relating to U.S. attorneys, the allocation of time on this side will be Senator SCHUMER, 5 minutes; Senator MURRAY, 5 minutes; Senator CARDIN, 5 minutes; Senator KLOBUCHAR, 5 minutes; Senator FEINSTEIN, 5 minutes; and the balance of the time will be under the control of Senator LEAHY.

Mr. President, I ask unanimous consent that be the case.

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

RECOGNITION OF THE MINORITY LEADER

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

THE BUDGET

Mr. MCCONNELL. Mr. President, let me say to my good friend, the majority leader, that I will be checking at noon to see if we can avoid the motion to proceed to the budget, but I have not been able to get that cleared yet. I hope that I will be able to.

I would also remind everyone, as the majority leader and I indicated yesterday, budget week is always challenging, with lots of votes and evening sessions. So I would encourage Members on our side, if they have amendments, to offer them early in the week to avoid having them caught up in the vote-arama which will occur, regretfully, at the end of the process.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I would finally say the two managers of this bill, Senator CONRAD and Senator GREGG, have done this bill many times. They are friends, and they will do everything they can to cooperate with each other. I hope Members will cooperate with them.

RESERVATION OF LEADER TIME

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

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

PRESERVING UNITED STATES ATTORNEY INDEPENDENCE ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 214, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 214) to amend chapter 35 of title 28, United States Code, to preserve the independence of United States attorneys.

Pending:

Kyl amendment No. 459, to ensure that United States attorneys are promptly nominated by the President, and are appointed by and with the advice and consent of the Senate.

Sessions amendment No. 460, to require appropriate qualifications for interim United States attorneys.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 90 minutes of debate, equally divided between the two leaders or their designees.

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I rise, first of all, to support Senator FEINSTEIN's bill, which I proudly have been a cosponsor of, and I urge all my colleagues to do the same. I wish to thank Senator FEINSTEIN for being the first to discover this provision and for asking the right questions, which then set us on this journey about the U.S. attorneys.

Second, I wish to thank Senator LEAHY, our leader in the Judiciary Committee on this issue, who has been stalwart in making sure we get to the truth.

Some have been content to casually dismiss the administration's actions relating to the firing of the eight U.S. attorneys as a comedy of errors at the Justice Department. Make no mistake about it, this is no comedy, this is a tragedy. It is a tragedy for eight public servants whose reputations have been wrongly trashed. It is a tragedy for the reputation of the Justice Department, as a whole, and for the Attorney General, in particular. Most importantly, however, it is a tragedy for public confidence in our system of justice.

How can people have faith when the documents show that in this Justice Department allegiance to party is apparently valued over loyalty to the rule of law? How can citizens not be cynical when it is clear the PATRIOT Act was cynically manipulated to bypass checks and balances?

We all know politics plays a role in the Justice Department, but it should be second to rule of law. On too many issues in this Justice Department, politics came first and rule of law came second.

Weeks ago, we suspected the provision we are correcting today was no more than a mechanism to allow end runs around the Senate and the people. The e-mails have proven our worst fears. This provision was apparently added to the PATRIOT Act not for efficiency or national security but to make it easier to install political loyalists. This is how Kyle Sampson, the former Chief of Staff to the Attorney General, described how the slipped-in PATRIOT Act should be manipulated:

By using these provisions we can give far less deference to home State senators and thereby get (1) our preferred court person appointed, and (2) do it far faster and more efficiently at less political cost to the White House.

That is a memo to Harriet Miers.

That scheme was, of course, followed to install Karl Rove's former deputy in the Eastern District of Arkansas.

Here is another e-mail from Mr. Sampson:

My thoughts: 1. I think we should gum this to death: Ask the Senators to give Tim a chance, meet with them, give him some time in office to see how he performs. If they ultimately say ''no, never,''—and the longer we can forestall that the better—then we can tell them we will look for other candidates, ask them for recommendations, evaluate the recommendations, interview their candidates, and otherwise run out the clock. All of this should be done in ''good faith,'' of course.

That is an astonishing breach of trust. That shows that, at least according to Mr. Sampson, this provision could be used to keep political appointees in office for a long time.

So there is no doubt we must pass this legislation, which provides—and has always provided—for checks and balances on a runaway Justice Department. If there is proof that it was ever needed, it is the actions of the Justice Department in the last several months. I am especially amazed, given the proof that this secret midnight provision was willfully abused at the highest levels of the Justice Department, how anybody could not vote for Senator FEINSTEIN's legislation. This is the latest example of an executive branch run amuck, the most recent evidence of a Justice Department almost drunk with its own power and with little regard for checks and balances.

That is why our work will not be done when we pass this bill in a few hours. It is not enough to reform the law, we must repair the Justice Department.

Finally, last night we received 3,000 pages of documents. Some in the administration have started to spin this: See, they were fired for cause. But if you look at these documents, that is not the case. They read like an ''Alice in Wonderland'' tale. There are thousands of pages of stock documents, and we still have no real idea why many of these fine men and women were fired.

Mr. President, I ask unanimous consent for 1 additional minute.

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

Mr. SCHUMER. Mr. President, the documents leave us scratching our heads in wonderment as to why they were fired. One e-mail shows that days before the purge, the Deputy Attorney General was uncertain about the reasons why Nevada U.S. attorney Daniel Bogden was fired: ''I'm still a little skittish about Bogden.''

The documents show that far from exhibiting performance problems, New Mexico U.S. attorney David Iglesias is highly praised by officials in Washington and even considered for promotion. Similarly, Washington U.S. attorney John McKay is also praised 3 months before he was fired. San Diego U.S. attorney Carol Lam was strongly defended by the Department on her pursuit of immigration cases months before she was fired. Finally, another U.S. attorney, Patrick Fitzgerald, widely considered to be one of the finest and most apolitical prosecutors in the country, was ranked in the middle tier and described as ''undistinguished.'' Meanwhile, two of the fired prosecutors were only a short time ago ranked in the top tier.

The more we dig, the deeper the hole it seems the Justice Department is in, with still no clear explanation as to why these fine prosecutors were fired. Make no mistake about it, we will get to the bottom of this.

This legislation is an early step, but we cannot rest until we have reformed the Department's ways and restored confidence, so that when people enter Justice Department buildings and see the eagle perched with arrows in her claws, it means justice and the rule of law, without fear or favor.

Mr. President, I yield the floor.

Mrs. MURRAY. Mr. President, every American needs to have confidence in our system of justice, but in the last few weeks that confidence has, frankly, been deeply shaken. Each day, we get new evidence that the Bush administration injected partisan politics into a process that requires independence, and each day we get more proof this administration has not been telling the truth.

I am here today on this floor to support the bill to restore the Senate's constitutional advise and consent in confirming nominees to serve as U.S. attorneys. I am deeply troubled by the many ways the Bush administration has politicized the administration of justice because it threatens all Americans.

Recently, we learned that the administration's political meddling reached into my own home State of Washington, and it led to the firing of a U.S. attorney who had received an excellent job performance review only months, months before he was fired. When I asked for answers, the Justice Department told me things that were not true. Deputy Attorney General Paul McNulty assured me the firing of John McKay was performance related. I didn't believe it at the time, and, unfortunately, the past few weeks have only confirmed my suspicions.

As the facts come out, the administration's untruths are coming to light. First we were told the White House had no role in the firing. Now we learn this whole scheme originated in the White

House. At first we were told the firings were performance related. Now documents have disclosed that the Justice Department was evaluating U.S. attorneys based on their loyalty to the administration. We were also told a significant change in the PATRIOT Act was needed for national security and would not be abused. That also was not true. Every day, this story gets worse and worse and climbs higher up the political ladder. Now we have learned that senior officials in the White House, including the President's former counsel, Harriet Miers, and his top political adviser, Karl Rove, were key players in these firings.

Why should folks at home care if the White House and Justice Department are politicizing the Office of the U.S. Attorney? It matters, and it matters for two reasons.

First, any American can become the subject of a civil or criminal investigation by a U.S. attorney, an investigation that could upend their life or ruin their reputation, destroy their business, and ultimately cause the Government to take their life or their liberty. That is a tremendous amount of power, and we need to make sure the people who wield that power are launching investigations based on the facts and based on the law—not based on political pressure.

Second, after all the ways the Bush administration has undermined the rights and liberties of our citizens, we need to vigorously stand up and fight back whenever new abuses come to light.

I believe we could have gotten the facts sooner if we had gotten straight answers from the Attorney General from the start. Unfortunately, Mr. Gonzales can't seem to get his stories straight. At a press conference last week, he said he didn't know about it, but he is responsible for it. He said mistakes were made, but the firings were appropriate. He said he believes the U.S. attorneys should be independent, but they can be fired for any reason.

Two years ago, I voted against confirming Alberto Gonzales as the Nation's top law enforcement officer. As I said in February of 2005, he ''lacks the independence and honesty to be Attorney General.'' I also said his troubling record would not assure public confidence in the fair administration of justice. I take no joy in saying that my fears have been borne out.

How did we get here? Last year, when Congress updated the PATRIOT Act, a change was inserted at the request of the White House. This change was not debated. It was made without the knowledge of many of us here in the Senate. Today, we know that change to the PATRIOT Act played an important role in this entire scheme. It significantly lowered the difficulty of removing any U.S. attorney and replacing him or her without consulting anybody.

We need to end these abuses. I support the bill that is before the Senate today because it will restore the Senate's role in confirming U.S. attorneys, and it will also restore a critical check on the administration's power.

Traditionally, when there has been a vacancy for a U.S. attorney, the White House has sent a nomination over here to the Senate. Last year, the White House changed that procedure.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mrs. MURRAY. I ask unanimous consent for 1 additional minute.

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

Mrs. MURRAY. Last year, the White House changed that procedure by slipping a change into the PATRIOT Act reauthorization. With that change, the White House was then able to install interim U.S. attorneys indefinitely without going through the normal Senate approval process.

This bill which is before us now restores the role of the Senate in confirming interim nominees. This legislation will force the White House to work with the Senate and home State Senators. This bill is an important step to protecting the U.S. Attorney's Office from the politicization it has suffered.

I urge my colleagues to take a step forward for justice and pass this critical reform today.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I ask to proceed for 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator is granted that right.

Ms. KLOBUCHAR. Mr. President, as a former prosecutor, I am here to speak in behalf of S. 214. I would first like to thank the members of the Judiciary Committee for introducing and reporting out this important bill, and I am proud to be a cosponsor.

I returned from Iraq yesterday, and I look forward to reflecting on lessons learned from that trip later on this week. But I will say that my Senate colleagues and I had extensive discussions with Iraqi political leaders as well as the American military about the need to restore the rule of law in Iraq. I have always been proud that our judicial process has been the gold standard for the rest of the world. It is ironic, then, that even as I spoke with Iraqi leaders about their challenges, we Americans were learning a very public lesson about how the rule of law can be undermined in even the most advanced democracies.

We have learned this past month that our Nation's chief law enforcement officer, our leading guardian of the rule of law in this country, has allowed politics to creep too close to the core of our legal system. This administration has determined that Washington politicians, not prosecutors out in the field—and perhaps, in some cases, not even the facts—will dictate how prosecutions should proceed. The consequences are unacceptable.

Good prosecutors, by all accounts doing their jobs, upholding their oaths, following the principles of their profession, basing their decisions on the facts before them, were pressured and/or fired and/or unfairly slandered by this administration. All of this, it would seem, was motivated by rank politics. That is simply not how we do things in this country. That is why, last week, I called for the Attorney General to resign.

Before I came to the Senate, I was a prosecutor. I managed an office of nearly 400 people, and we always said in our office: If you do the right thing, if you do your job without fear or favor, at the end of the day, you have no regrets. It may not be easy; whatever your decision is, it may not make everyone happy, you may have to explain it, but if you do your job without fear or favor, you have no regrets. That was true, even though I was elected through the political process. I checked politics at the door when I came to my job.

I remember when I first came to my office there were two prosecutors in the office who supported my opponent. I went and met with them the day after I was elected, and I said: I heard nothing but good things about you two, I heard you are great prosecutors, and I would like to know what are the jobs you want in the office. One of them wanted to be head of the drug team, the other wanted to be head of the gang team, and I put them in those jobs and never regretted it. They did incredible jobs, got along well with the police, and they worked well with the community. That is because we knew, when it came to prosecutions, there were boundaries. Those boundaries, this month in Washington, we found out were crossed.

Another case I will always remember is a case where we prosecuted a judge who had stolen $400,000 from a mentally disabled woman he was supposed to protect. This young woman lived in a world of stuffed animals and dolls. She needed people to take care of her. He was the person who was in charge of her money in her accounts, and he systematically stole all $400,000 in those accounts. He was a politically connected judge. He was a Democrat. When that case came into our office, I got so many calls, dozens of calls, from people in the community, political people, saying: You know, he messed up, but he is a good guy. He should not go to jail.

He went to jail. We asked for a 4-year sentence, and we got that sentence. I still remember that courtroom packed with all of his friends, all of his pals, but we did the right thing, and at the end of the day we had no regrets.

This is a tradition in our country, a simple and deeply rooted tradition that our party affiliation should not get in the middle of decisions about whom we prosecute and how we enforce the law.

That tradition is as true—perhaps even more true—in our Federal prosecutor's office as it is in the local DA's office. This tradition emerged because our justice system is ultimately built on a foundation of trust. Without that trust, the system does not work.

When our leaders play politics with the judicial process, we lose that trust. When people get fired for political reasons, we lose that trust. When good prosecutors are removed to make room for political cronies, we lose that trust. In losing that trust, the very lifeblood of our justice system comes under threat.

The legislation we are considering will not undo the damage this administration and this Attorney General have caused, but it will prevent this Attorney General and future Attorneys General from ever doing something like this again.

It is time once again to allow Federal prosecutors to do their jobs without fear or favor. It is time to place much needed limits on an administration that has far too often and far too flagrantly exceeded its authority and abused the public trust. Today, by passing this bill, we seek to curb that abuse and to give trust back to those who gave it to us—the people of this country.

Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally to both sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARDIN. 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.

Mr. CARDIN. Mr. President, I take this time to rise in support of S. 214, Preserving United States Attorney Independence Act of 2007. This legislation would restore the appointment of our interim U.S. attorneys to how it was prior to the passage of the PATRIOT Act.

The PATRIOT Act included a provision many of us did not know was in that legislation. It was a provision that affected the appointment of interim U.S. attorneys.

Prior to the passage of that provision, the Department of Justice had the ability to appoint interim U.S. attorneys for up to 120 days, without the confirmation of this body. This legislation will restore that provision, which will establish the right balance between the executive and legislative branches of Government. It will encourage the Department of Justice to work with this body so that interim U.S. attorneys and permanent appointments can be considered timely and the confirmation process can move forward. Most importantly, this legislation is necessary because of the recent actions of the Department of Justice in removing several U.S. attorneys, which is currently under investigation by the Judiciary Committee.

I serve on the Judiciary Committee. On March 6, we had a hearing that I think was remarkable. It was unfortunate because we had former U.S. attorneys who appeared before our committee and talked about being intimidated and pressured by the Department of Justice and by the White House. They were fired despite the fact that they had received excellent performance evaluations by the Department of Justice. In several of these cases, the office was involved in high-profile political investigations, some of which the administration was not happy about.

The U.S. attorney is the chief Federal law enforcement officer in our States. The U.S. attorneys must work independently. The Attorney General must carry out his responsibility for the entire country. He is not the attorney for the President. The Department of Justice must maintain that independence. A U.S. attorney has enormous power to determine who should be investigated, who should be prosecuted, and what type of punishment should be recommended. It is a tremendous amount of power which must be exercised with total independence.

The manner in which these eight U.S. attorneys were removed from office raised many concerns that all of us should be concerned about. This raises concerns about the independence of the U.S. attorney and whether these investigations will be conducted with the public interest in mind or to further a political agenda. It raises concerns as to whether the Department of Justice or the White House was trying to influence the independent judgments of the U.S. attorney in a specific investigation. It raises concerns as to how Congress was kept informed as to how these removals were being handled. Information that was made available to us was inconsistent and certainly raises questions as to whether Congress itself was being misled by the Department of Justice. This raises concerns about the morale within the U.S. Attorney's Offices throughout the country and whether they will be able to attract the best possible people in order to prosecute these activities and get the best people in the U.S. Attorney's Office.

The work of this body is continuing as it relates to the U.S. attorneys. The Judiciary Committee is continuing its work. I must tell you that I know there were a lot of documents made available last night to the Judiciary Committee, but what we need to have is the personal appearance of those who were directly involved—Ms. Miers, Mr. Rove, Mr. Sampson. Those testimonies need to take place in the Judiciary Committee, open testimony, so we can get the information as to what exactly happened in regard to the dismissal of these U.S. attorneys and whether it was improper activity, trying to influence the judgment of our U.S. attorneys.

It starts with the passage of S. 214. It starts with our restoring the proper balance between the executive and legislative branches of Government as it relates to the use of interim U.S. attorneys and the confirmation process by this body.

I urge my colleagues to support S. 214 and to support the work of the Judiciary Committee as we continue our investigation as to the dismissal of U.S. attorneys.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I have listened with interest to all of my colleagues who have made a case for changing the law, but I have yet to hear any of them discuss the specific proposal they presumably intend to support. The disconnect is that it does not solve the problem they have identified. It doesn't even begin to solve the problem.

I urge my colleagues, before simply voting on a partisan basis for a bill which is allegedly designed to solve a problem, that they at least ask the question whether it solves the problem they have identified. It does not.

That is why I proposed an amendment that does solve the problem. I urge my colleagues, before they vote in 45 minutes, to read the underlying bill—it is only 2½ pages—to read my amendment—it is about the same length—and perhaps to listen to 5 minutes of what I have to say.

This is not partisan. We are going to have Republicans and Democrats as President and a Republican- and Democratic-controlled Senate. We want the U.S. attorneys to be nominated by the President, and we want the Senate to be able to act on the nominees. The underlying bill does not guarantee that. In fact, it does not even provide for it. My amendment ensures that happens.

So I urge my colleagues, you have stated the case for a change. Please listen to what I have to say because I think you will see that the bill, the underlying bill, was drafted in great haste; it does not solve the problem. My amendment does. I made several arguments yesterday on behalf of this amendment. I argued that it corrects the flaws in the underlying bill that all of us should want to correct.

Briefly, yesterday, I noted that the committee-reported bill does not ensure the President will nominate a U.S. attorney. That is the first thing we want to happen. Secondly, as a result, therefore, it certainly does not solve this problem my colleagues have been trying to identify here this morning about being accountable for Federal criminal prosecutions.

Secondly, the Senate would have no say in the selection of a U.S. attorney who is appointed by a Federal judge, which the committee-reported bill allows to happen.

Third, I noted that even the district judges themselves do not want to be

placed in the position of selecting the U.S. attorneys. They have found this to be a conflict of interest, and they have refused in some cases to appoint a U.S. attorney.

Fourth, I have argued that the district judges are ill-equipped in selecting U.S. attorneys. By the way, to my knowledge, no one has sought to dispute what I have been saying here.

Fifth—I think this would be of interest to my Democratic colleagues—the committee-reported bill does not even end the practice of allowing an individual to serve as a U.S. attorney without Senate confirmation and without a nomination even being sent to the Senate. The committee-reported bill restores the 1986 to 2006 statutory language, and that language allowed consecutive appointments of interim U.S. attorneys by the Attorney General—the exact practice my Democratic colleagues are criticizing here today. So they permit the continuation of exactly what they object to. It would allow an administration to stack the terms of acting U.S. attorneys and interim U.S. attorneys, which would allow an individual to serve as U.S. attorney for nearly a year without confirmation ever being submitted to the Senate, and perhaps beyond that.

I made these same arguments in a ''Dear Colleague'' I circulated Monday morning. I am going to try to have that letter distributed to the desks of all Senators, so when they arrive, they can at least take a look at it and evaluate what I am saying.

Yesterday, I had expected that opponents of my amendment would come to the floor and respond as to why they disagreed with my amendment. A significant number of Democratic Senators did come to the floor yesterday and today to speak to the bill. All of them urged passage of the bill. Not one of them even mentioned my amendment, an amendment the Senate will be voting on in about 45 minutes.

My staff ran a computer search this morning to see if someone at least had the decency to submit a statement for the record explaining why they opposed my amendment. No such statement exists. I listened carefully to the speeches this morning. All made a case for a change. Not one referred to the underlying bill or showed how it solves the problem, because it does not, and not one referred to my amendment, which, as I said, does solve the problem they have identified.

I understand this issue has become very political. I understand there is great pressure within the Democratic caucus to vote down any amendments to preserve an undiluted victory over the administration. But this has nothing to do with the political issue that is raging out there; it has to do with solving a specific problem we have all agreed exists with the existing law, a problem not solved by the underlying bill.

I would urge my colleagues to think before they jump over this cliff. We are all elected to a 6-year term for a reason: We are given this much time so we can stop and think about things and not be rushed into decisions that in retrospect do not appear to be a very good idea. That is how the legislation got into the PATRIOT Act that everybody is complaining about today. We are going to be compounding one mistake, I expect, with another.

Allow me, therefore, to make one final pitch to my colleagues on the Democratic side who presumably simply will follow the leader and vote against my amendment without having read it or the underlying bill. If you think about the long term, I think you will agree that my proposal is the one that makes sense. But let us think about the short term and compare how the committee-reported bill and my amendment would operate over the remaining 2 years of this administration. Let's see how they work.

Under the committee-reported bill, which presumably would be signed into law maybe in April, all interim U.S. attorneys would continue to serve for another 120 days until sometime in July. What would happen then, after that 120 days? One of three things could happen.

A district judge could pick a U.S. attorney. Well, the Senate has no say in that. Most judges who do so are very likely to reappoint the current interim U.S. attorney. If the judge does so, that interim U.S. attorney could serve through the remainder of this administration without a nomination ever having been sent to the Senate.

The second alternative is that if the district judge does not choose to appoint an interim U.S. attorney, the Attorney General could then reappoint the current one to one or more consecutive terms—the very thing all of my colleagues on the Democratic side have objected to here, that the Attorney General could appoint an interim U.S. attorney. That judicial district would have a U.S. attorney, likely for the remainder of the administration, who was not submitted to or confirmed by the Senate.

The third possibility under the committee-reported bill is that after the 120 days are up, sometime in July, the administration could simply designate the interim U.S. attorney as the acting U.S. attorney—a designation that could last until March of 2008 without a nomination having ever been submitted the Senate. By March of 2008, it is likely that no nomination would ever be submitted to the Senate and that the acting or interim U.S. attorney would simply be recess-appointed for the remainder of the President's term.

In all three scenarios, no Presidential nomination, no Senate confirmation or consideration of the nominee—the very thing the Democrats here are objecting to would continue to exist under the bill so many of them have spoken in support of.

The bottom line is, if the Senate blindly votes down my amendment and passes the committee-reported bill without fixing any of its flaws, the judicial districts that have no Senate-confirmed U.S. attorney today will stand an excellent change of having no Senate-confirmed U.S. attorney for the remainder of this administration.

Compare this to the result that would happen if my amendment were adopted. Under my amendment, the interim authority is repealed in its entirety. In other words, the main thing my Democratic colleagues have complained about—that Attorney General Gonzales can make an interim U.S. attorney appointment—would be gone. He would not be able to do that anymore. Not so under the bill.

Under my amendment the President would be required to nominate a U.S. attorney candidate within 120 days; obviously, by the middle of summer. Under my amendment, even if the President doesn't comply with this deadline because acting authority expires after 210 days if no nomination is submitted, the President would be forced to nominate a U.S. attorney before the end of the year. The bottom line is, if my amendment is adopted, all judicial districts in the country will have a Senate-confirmed U.S. attorney or at least a nomination pending in the Senate for most of the remainder of the administration.

Just in case my colleagues think I am kidding, lets look at the underlying bill. This is all there is to it. There is not a whole lot here. Let's read what it says. First, it says:

> The Act may be cited as the ''Preserving United States Attorney Independence Act of 2007.''

That is a misnomer if I ever heard one. Why? The code is amended by striking the provision above and inserting the following:

> A person appointed as United States Attorney under this section may serve until the earlier of—
>
> (1) the qualification of a United States attorney appointed by the President—

That is the normal process—

> or
>
> (2) the expiration of 120 days after appointment by the Attorney General under this section.

Wait. I thought the object was not to have the Attorney General appoint U.S. attorneys. Let's read this again:

> Or . . . the expiration of 120 days after appointment by the Attorney General under this section.

So under the underlying bill, the Attorney General still gets to appoint interim U.S. attorneys. Not so under my amendment. That section is repealed. Or, third:

> If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney until the vacancy is filled.

The district court, for all the reasons we have discussed, is not the best entity to be appointing a U.S. attorney. All of us would agree it would be preferable not to have the district court do that. In any event, if the object is to preserve the Senate's ability to evaluate a

nominee and to act on that nomination and reject it or confirm the individual, we have no such authority if the district judge appoints the U.S. attorney.

So there are three possibilities. That the President would nominate is one; but if he does not, there is no penalty. For those who argue that the President is trying to get by with something by having his Attorney General appoint interim U.S. attorneys who never have to be confirmed by the Senate, under this first point the President can simply do nothing, and then his Attorney General can appoint an interim U.S. attorney. I thought that was what we were trying to avoid. If the Attorney General doesn't do it, then a Federal court judge can do it. In none of those cases does the Senate have anything to say about it.

Clearly, the bill doesn't solve the problem that everybody has identified. My amendment, on the other hand, does. It does so in three specific ways. This is all of one page and three lines. It is not hard to read. What we say is that under the new law, if my amendment is adopted, section 546 of title 28 is repealed. That is the interim appointment authority of the Attorney General, the thing that everybody is objecting to: Alberto Gonzales is going to appoint an interim, and the Senate will never have a chance to act on that nominee. My amendment eliminates his ability to do that or any subsequent Attorney General, unlike the underlying bill.

So how would we fill the vacancy?

Not later than 120 days after the date on which a vacancy occurs in the office of United States attorney for a judicial district, the President shall submit an appointment for that office to the Senate.

My amendment, unlike the underlying bill, requires the President to make a nomination within 120 days. Why? A, the President should be making these nominations—as we all agree—B, the Senate would then have the ability to act on that nomination. How do we know? Because we also say that 120 days after the date of submission of an appointment under paragraph 1, ''the Senate shall vote on that appointment.'' So we have ensured that the President will make a nomination and that the Senate will act on that nominee.

People have said: But you can't sue the President for not actually nominating someone. So we have a final provision that creates a very strong incentive for the President to nominate to fill the vacancy:

If the President fails to comply with paragraph (1) with regard to the submission of any appointment for the office of United States attorney, paragraph (2) of this subsection shall have no force or effect with regard to any appointment to the office of U.S. Attorney during the remainder of the term of that President.

What that means is that the President has a very strong incentive to nominate people to fill the vacancy so that the Senate can act on that nomination because, if he fails to do so, the requirement that the Senate act on his nominations for U.S. attorney is vitiated for the remainder of his term. He no longer has any assurance that his nominees will be acted upon by the Senate.

This is about as simple—it is all on one page—a way of solving the problem that I can imagine. Let me summarize. The problem my colleagues have suggested is that in the PATRIOT Act we put a provision that allows the Attorney General to fill vacancies with an interim U.S. attorney, and the Senate has no say-so. Under the bill, that exact process continues. It is not changed. We haven't solved a thing in that regard.

What we have said is, if he doesn't do that, a district judge could fill the vacancy. That is a great solution. Actually, it is not great. District judges don't want the authority. They haven't exercised it well in the past. They are not the best people; in fact, they have an inherent conflict of interest to be appointing prosecutors who are going to appear before them. In any event, the Senate has no ability to act on the nominee. It is not even a nominee, it is an appointment. The Attorney General can appoint or a Federal district judge can appoint. In neither case does the Senate get an opportunity to confirm or reject the nominee.

The underlying bill does not solve the problem that everybody is talking about. Only my amendment solves the problem which says, first, the ability of the U.S. Attorney General to fill these vacancies with an interim U.S. attorney is now gone. He cannot do that anymore. The very thing we don't like can't happen under my amendment.

Secondly, instead of having a Federal district judge appoint a prosecutor with no Senate confirmation, we require the President to make his nomination, that the Senate will act within 120 days of receiving that nomination, and if the President fails to do so, the Senate no longer has to act on any of his U.S. attorney nominations for the remainder of his Presidency.

Those who have argued that there is a problem have an obligation to explain how their proposed solution solves the problem. I issue this challenge to any of my Democratic colleagues who plan to vote for the underlying legislation, S. 214.

Please come to the floor within the next 40 minutes and explain to me what it is in these two pages that solves the problem. Can they point to where the Attorney General can no longer appoint a U.S. attorney? No, they cannot. It says right here that the Attorney General can appoint an interim U.S. attorney, and the Senate can't do anything about it.

Can they show how the Senate would be able to act on the appointment by a Federal district judge? No. It says that a Federal district judge may appoint the U.S. attorney. Not nominate, appoint. Again, the Senate has nothing to say about it.

I challenge my Democratic colleagues—they have done a great job of saying we have a problem—to show me how their bill solves the problem. Have enough humility to come to the Senate floor and say: We made the case for a change. We are willing to acknowledge that actually your solution is a better solution than ours, and we are willing to say we will support your solution.

That would solve the problem. For the future we would all be happy. We wouldn't have politics dictate the solution that in the end doesn't work to anybody's satisfaction.

I urge colleagues, vote yea on the Kyl amendment to solve the problem that has been presented.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. KYL. Absolutely.

Mr. SESSIONS. We have people pointing out a flaw in the current bill that we did pass, that the Senator acknowledges is there, and I acknowledge is there. People cite potential abuses from the system. But as the Senator was speaking yesterday on his amendment, a hypothetical came to mind. He has been in the Senate a long time. He is one of the great lawyers in the Senate. He has been on the Judiciary Committee for many years.

Let's assume this hypothetical: A President of the United States believes strongly that the Federal gun laws should be enforced, that the Federal immigration laws should be enforced, that the Federal death penalty should be enforced. He or she nominates a person who shares those general philosophies to be U.S. attorney. Under the Feinstein amendment, if this Senate were a liberal Democratic Senate that didn't share those views and did not confirm that U.S. attorney within 120 days, it would then fall to a district judge in some district to make that appointment. Would the Senator agree with that?

Mr. KYL. Mr. President, there are two alternatives in that situation. Either the President's Attorney General could appoint an interim U.S. attorney with no Senate confirmation or a district judge could appoint that U.S. attorney with no Senate confirmation.

Mr. SESSIONS. The Feinstein legislation would have the judge make that appointment.

Mr. KYL. Actually, there are two alternatives. Let me read them. I am reading from the bill. I urge my colleagues to read the bill. It really helps.

There are two options if the President does not submit a nomination. This is No. 2, if the President hasn't nominated someone, ''the expiration of 120 days after appointment by the Attorney General under this section.''

The first option is that the President could try to submit another nomination. But if he chose not to do so, his Attorney General could appoint the U.S. attorney. Or the third possibility is, if an appointment expires under this section, the district court for such district may appoint a U.S. attorney. So

there are two options if the President doesn't nominate another candidate. His Attorney General can appoint the U.S. attorney, with no Senate confirmation, or a Federal district judge can appoint the U.S. attorney with no Senate confirmation.

Mr. SESSIONS. Federal judges I have practiced before had philosophical views. Some of them have been pretty activist Federal judges. Some of them think there are too many gun prosecutions in Federal court, too many drug prosecutions, maybe too many immigration prosecutions. They could, under that power, appoint someone who would not follow the policies of the President who was elected to set prosecutorial policy; is that not correct?

Mr. KYL. Mr. President, that is exactly correct. Let's go to the other side of the coin. The President's own Attorney General could appoint someone who very aggressively followed his policies, and the Senate would have nothing to say about it.

Mr. SESSIONS. That is correct also. I suggest this is an odd thing we are doing. This is an executive branch appointment. That is what has been contemplated since the founding of the Republic, and that is what we have done since the founding of the Republic.

I was a U.S. Attorney for 12 years. It was always considered an oddity, if some vacancy occurred and the confirmation did not occur within the required time, that a Federal judge would be involved in appointing an executive branch appointment. But that is what the statute was. It worked to some degree, and we went on with it over the years.

But it was never a thoughtful, principled approach to how the executive branch of the Government should be operated because I am not aware of any other appointment in the executive branch of Government for which if it is not filled in a timely basis, the Senate—a coequal branch—can up and fill that appointment, nominate and fill it; nor am I aware of any other office in the entire Government where a Federal judge would fill it if the Senate did not act properly or the President did not nominate and follow through properly.

I want to say I think Senator KYL's solution to this problem is thoughtful. The more I considered it, the more I believed he was on the right track. Truthfully, if our colleagues who are concerned about the difficulty in the statute would pay attention to what he has said, you would want to support the Kyl amendment because it goes beyond President Bush. He has less than 2 years left in his term. There will be another President, and this law could be in effect for hundreds of years.

So what is the right, principled approach to the appointment of U.S. attorneys? The right approach is that it should be done by the executive branch because it is an executive branch function. I was the attorney general of Alabama. The court did not appoint me. I was elected by the people in a political race. Most attorneys general are elected in political races around the country.

Prosecutors are accountable to policies. They are responsible for effectively utilizing limited resources to effect appropriate and just policies of the United States. Presidents and the people of States who elect them elect them to execute certain policies. They usually understand that and make commitments to that as a political candidate, or the President asks if they will support his policies before he appoints them.

Now, I want to say this very clearly. Every U.S. attorney who is worth 2 cents understands they did get their office through some sort of political process. Confirmation in the Senate is a political process. A lot of the talk we have had about U.S. attorneys has been more politics than substance in the last few days. It is a political process.

But what is absolutely critical is that U.S. attorneys remember the oath they took. That oath is to faithfully enforce the law, whether it involves a Republican, a Democrat, a rich person, or a poor person; that no matter what their station in life, they treat everyone fairly and objectively. They must comply with that. They have been given the chance to do the job, like any attorney general is who runs and gets elected. But their oath, their responsibility, their duty is to do it correctly.

You get pressure all the time. They say: Well, somebody tried to pressure a U.S. attorney. It should not happen from Congress, in my view. I do not believe that. I would not call a prosecutor to suggest that I know more than they know about a case that is before them. But sometimes newspapers write editorials: You are not prosecuting this case. Sometimes local mayors and politicians say: You should not be investigating this case. You are under pressure all the time. If a person is not strong and is not committed to integrity and the right principles and doing the right thing, they are going to be a sorry U.S. attorney. That is the bottom line. It is not a job for the cringing or the weak, I will tell you. I had to make some tough calls. In one case where I prosecuted against two judges, I remember one of the legal aid lawyers who testified on my behalf—his client did—he told me during the trial: Jeff, if these guys are acquitted, both of us are going to have to go to Alaska. It is tough business. You have to do what you think is right and proceed with the case.

Now, if Senator KYL's amendment is not accepted, I have an amendment I think would help. I hope Senator FEINSTEIN would not be maybe even opposed to it, although I am not sure she is comfortable with it at this point. But I would point out to my colleagues and ask them to consider this amendment as an appropriate step.

My amendment would make a very limited modification to the underlying Feinstein bill, if it moves forward without the Kyl amendment, to ensure that only qualified candidates will be appointed by judges to serve as interim U.S. attorneys. The amendment allows district judges, under this statute, if it becomes law, to appoint only those individuals who are qualified and have proper background checks and security clearances.

Under my amendment, a district court can only appoint an interim attorney if they are a current DOJ, Department of Justice, employee or a Federal law enforcement officer, employee, who is already authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law.

This effectively places the same limitations in effect to which the Department of Justice adheres when making interim appointments on district judges. According to the Department of Justice, in addition to the full field investigation, background check conducted by the Federal Bureau of Investigation—when you are appointed to be U.S. attorney, they conduct a full field investigation by the FBI to see if you have any skeletons in your closet, to see if you are worthy of the office and if you can be trusted. That is done for every interim U.S. attorney, too.

Further, the Department of Justice reviews matters under the jurisdiction of the Department's Office of the Inspector General, Office of Professional Responsibility, and the General Counsel's Office at the Executive Office for United States Attorneys to see if this Department of Justice employee has problems, to see if there are complaints, deficiencies, ethical complaints about the person. That can also keep them from being appointed.

So even if the candidate is a qualified DOJ employee or Federal law enforcement officer, a district court would not be allowed to appoint them if the court learns they are under investigation or have been disciplined by the DOJ or other Federal agencies such as the inspector general or the Office of Professional Responsibility.

Finally, the amendment requires a district judge to confidentially inform the Department of Justice, the Attorney General, of the identity of the person they expect to name 7 days before the appointment so these checks can be made.

I think this has two saving graces. It will eliminate some examples we have had of judges appointing people who should not have been appointed, who were not qualified to examine the cases in the office because those cases required security clearances, as all grand jury testimony does, for that matter. They did not have those security clearances. That is important. Also, since the prosecution of criminal cases is an executive branch function, the appointment being from the Department of Justice would at least be making it an

appointment from the executive branch of the United States.

Both of those, I think, are healthy policies. I join with Senator KYL in saying, let's do this thing right, if we are going to do it. It is going to be there maybe for 100 or more years. Let's set a policy that would be principled and consistent with the separation of powers that has served us so well and we can be proud of, and not focusing on this specific set of events that led us to these ideas.

Mr. President, I thank the Chair and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the use of calculators be permitted on the floor of the Senate during consideration of the budget resolution.

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

Mr. LEAHY. Mr. President, I see the Senator from California on the floor, and I am about to yield to her. Could I ask, Mr. President, how much time is available to the Senator from Vermont or his designees?

The ACTING PRESIDENT pro tempore. Eight minutes.

The Senator from California has 5 minutes.

Mr. LEAHY. Mr. President, the Senator from Vermont has 8 minutes; the Senator from California has 5?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. LEAHY. Thank you, Mr. President.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, thank you. And I thank the chairman of the committee as well.

Mr. President, I rise today to speak in support of S. 214. As we all know, that is a bill to reinstate the Senate's role in the confirmation process of U.S. attorneys. I thank both Senators LEAHY and SPECTER for supporting this bill. I wish to say right upfront I believe we should pass a clean bill today. I have had the privilege of working with both Senators KYL and SESSIONS. I understand their amendments, but essentially what I have been trying to do is put the law back to the way it was before the PATRIOT Act reauthorization.

Now, at that time—March of last year—unbeknownst to Democratic and Republican Senators a provision was included in the PATRIOT Act reauthorization that essentially allows the Attorney General to appoint an interim U.S. attorney for an indefinite period of time without Senate confirmation.

Surprisingly, less than 1 year after receiving this new authority, serious allegations and abuse of the process have come to light. We now know that at least eight U.S. attorneys were forced from office, and that despite shifting rationales for why, it has become clear that politics has played a considerable role.

We know that six of the U.S. attorneys who were fired were involved with public corruption cases. Unfortunately, it is now clear that the bigger issue is what we do not know. Despite last night's production of some 3,000 pages related to the firing process, we are now faced with a growing list of unanswered questions, including:

What was the White House's role in these decisions?

In one e-mail produced last night, there is a conversation about involving the President in the process, and asking who decides what his level of involvement should be. But there are no subsequent documents showing the answers. Obviously, the question is: Who did decide and what was his role?

Who made these determinations about who to fire, and who was involved in the loyalty evaluation? Again, the documents produced last night do not answer this question, and we are still faced with several lists of targeted U.S. attorneys that beg the question: Who else was a target and what happened?

We also need to know what role, if any, did open public corruption cases play in determining who would be fired? What was the Attorney General's role in the process? Was the change to the law in March of 2006 done in order to facilitate the wholesale replacement of all or a large number of U.S. attorneys without Senate confirmation?

While I believe the Senate and the House will exercise our due diligence investigating these questions, we have an opportunity right now to ensure this politicization of U.S. attorneys does not happen again.

The bill before the Senate would return the law to what it was before the change that was made in March of 2006. It would still give the Attorney General the authority to appoint interim U.S. attorneys, but it would limit that authority to 120 days. If after that time, the President had not nominated a new U.S. attorney or the Senate had not confirmed a nominee, then the district courts would appoint an interim U.S. attorney. This is the process that was developed under the Reagan administration and it worked from 1986 to 2006. That is 20 years. It worked with virtually no problems for 20 years.

I think it is important we reinstate these important checks and balances and ensure that Senate confirmation is required. So I urge my colleagues to support the bill and to vote against all amendments.

I think it is necessary we pass this bill today, and I hope it is by a very substantial margin. I am so distressed at the politicization of the Department of Justice. I am so distressed that there is not an arm's length between politics and the law today in this country. I believe it is a very serious situation. I believe strongly that once the U.S. attorney takes that oath of office, they must be independent, objective, and follow facts wherever they lead them in the pursuit of justice. I believe that is what both political parties want and I believe that is what the American people want. There is only one way we are going to get back there with U.S. attorneys, and that is by simply returning the law to what it was before.

I also wish to point out the administration's interest in saying this is a political appointment has a limit, and I have expressed what that limit is. The only way we are going to effect the necessary changes is to pass this law this morning, and I very much hope it will be passed and passed without amendment.

I thank the Chair, and I yield the floor.

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

Mr. LEAHY. Mr. President, I thank the Senator from California for her statement and her leadership. She has been so forthright in her comments right from the beginning of this scandal, and I appreciate it. I will have more to say about her efforts at the end of my statement.

In a few minutes, the Senate will have an opportunity to begin restoring accountability and checks and balances to what is our Government, the Government that belongs to all Americans. We should pass the Preserving U.S. Attorneys Independence Act. We have to close a loophole that has been exploited by the Department of Justice and the White House—a loophole that led to the mass firings of U.S. attorneys.

When we roll back this excessive authority given the Attorney General by the PATRIOT Act reauthorization, we can restore—or at least take a step toward restoring—the independence of our Federal law enforcement system. We will be acting to reverse one more incident of overstepping by an earlier ''rubberstamp'' Congress, which was all too often willing to dance to the tune of a power-hungry White House.

The Attorney General—and I will agree with the Attorney General on this—he is right that mistakes were made. Mistakes were made, all right. It was a mistake to conduct the mass firings to send the message to our U.S. attorneys that they had better act like ''loyal Bushies''—their words, the Administration's words—rather than act as objective law enforcement officers. Mistakes were made, absolutely.

It was a mistake to malign the reputations of these officials by contending that the firings were prompted by their badly performing their law enforcement responsibilities.

It was a mistake to mislead the Senate Judiciary Committee in hearings and Senators during phone calls and in meetings about the firings.

It was a mistake to give the Attorney General the unlimited authority to fill these critical posts with his selections or the selections of the White

House without the advice and consent of the U.S. Senate.

But most of all, it was a mistake to inject crassly partisan objectives into the selection, evaluation, firing, and replacement of the top Federal law enforcement officers in our country.

I still have no sense that the administration or the Attorney General understand the seriousness of this matter. The apparent effort to corrupt the Federal law enforcement function for partisan political purposes has cast a cloud over all U.S. attorneys. Now every U.S. attorney is under a cloud. People are asking about those who were retained as ''loyal Bushies.'' People are wondering what prosecutorial judgments were affected. These mass firings have served to undermine the confidence of the American people in the Department of Justice and the local U.S. attorneys.

In the same way that any employer has the power to hire, we understand that people cannot be fired because they are Catholic or because of their race or because they are a whistleblower. The power of employment is not without limit. It can be abused. When it is abused in connection with political influence over Federal law enforcement the American people and their representatives in Congress have a right to be concerned. We need to get to the bottom of this situation. We need the facts, not more spin, not another concocted cover story.

The U.S. Department of Justice must be above politics. The Attorney General of the United States has to ensure the independence of Federal law enforcement from political influence. The Department of Justice should serve the American people by making sure the law is enforced without fear or favor. It should not be a political arm of the White House.

The Attorney General is not the President's lawyer. The President has a lawyer. The Attorney General is the Attorney General for the people of the United States of America—all of us—Republicans, Democrats and Independents.

The advice and consent check on the appointment power is a critical function of the Senate. That is what this administration insisted be eliminated by the provision it had inserted in the reauthorization of the PATRIOT Act. That measure struck the time limit on the ability of the Attorney General to name a so-called interim U.S. attorney. And that is what this bill, the Preserving United States Attorney Independence Act of 2007, is intended to restore. It is vital that those holding these critical positions be free from any inappropriate influence.

We are finding out more and more abuses by this administration. We learned for the first time earlier this month in testimony by a Congressional Research Service attorney before the House Judiciary Committee about another loophole this administration has tried to create and exploit. In 2003, the Department's Office of Legal Counsel issued a secret legal opinion to try to create an end run around the Senate's role. This administration is the first I am aware that is employing the Vacancies Act in addition to the interim U.S. attorney appointment authority sequentially. The horror that Senator KYL speaks about is one that this administration created and has apparently been employing. That is not what Congress intended.

With the passage of S. 214 today we should put an end to that untoward practice, too. As one of the authors of S. 214 and chairman of the Judiciary Committee, I say it is not our intent to allow such an abuse by having the Vacancies Act provisions and those of S. 214 used in sequence. We do not intend for the Attorney General to use such a misguided approach and seek to install a choice for 330 days without the advice and consent of the Senate. Nor do we intend for the Attorney General to make Senator KYL's other suggestion a reality by seeking to use the 120-day appointment authority more than once. It is not designed or intended to be used repeatedly for the same vacancy. These double dipping approaches run afoul of congressional intent, the law and our bill. Our bill should put a stop to that, too. Instead, the President should fulfill his responsibilities, work with home State Senators and nominate qualified people to serve as U.S. attorneys so that they can be considered by the Senate and confirmed. If he does not the district court will be restored the stopgap authority they previously had.

I was pleased that Senator FEINSTEIN worked so hard with Senator SPECTER to craft the consensus measure we consider today to reinstate vital limits on the Attorney General's authority and bring back incentives for the administration to fill vacancies with Senate-confirmed nominees. We reported out this measure with bipartisan support 13–6 after debating and voting down several amendments, including amendments similar to those offered today by Senators KYL and SESSIONS. We should again vote down these amendments and pass the bipartisan bill without delay.

Senator SESSIONS' amendment would attach certain conditions to a district court's authority to appoint an interim U.S. attorney after 120 days, but none to the Attorney General's interim appointment authority. Our bill is meant to roll back a change in law that allowed an abuse of power by the administration and the Department of Justice. There is no record of problems with the appointment of interim appointments by the district court. In fact, for almost a hundred years until the law was changed in 1986 during the Reagan administration, district courts were the sole means of appointing interim U.S. attorneys. There are many criteria that we want U.S. attorneys to possess—chief among them the ability to enforce the laws independently without fear or favor. But both the prerogatives of the administration in putting in place the people it wants and the home State Senators in ensuring fairness and independence in their States are protected when the President nominates and the Senate considers and confirms U.S. attorneys.

Senator KYL's amendment provides unjustified limitations on the Senate's role in confirming U.S. attorneys that could short-circuit the Senate's ability to undertake a thorough consideration of a nominee's qualifications and wholly disregards the role of the home State Senators.

It is true that this President has been slow in nominating U.S. attorneys. There are currently 22 vacancies and only three nominees. Building incentives for this President to fulfill his responsibilities and work with home State Senators would be a good thing. That is not what Senator KYL's amendment does. Instead, in the guise of setting a time limit on the Senate, what it actually does is override the traditional deference paid to home State Senators and the Judiciary Committee itself. In fact, no time limit is needed to require the committee or the Senate to act on qualified nominees.

During this President's term, U.S. attorneys have been confirmed quickly, taking an average of 68 days from nomination to confirmation. Only three people nominated to be U.S. attorneys have not been confirmed and two of those withdrawn by the President. In fact, when I first chaired the Judiciary Committee during President Bush's first term, we confirmed 84 of President Bush's U.S. attorney nominations in a little more than a year.

Some critics of the district court's role in filling vacancies beyond 120 days claim it to be inconsistent with sound separation of powers principles. That is contrary to the Constitution, our history, our practices, and recent court rulings. In 2000, in United States v. Hilario, the First Circuit upheld the constitutionality of the prior law on interim appointments, including the district court's role. In fact, the practice of judicial officers appointing officers of the court is well established in our history and from the earliest days.

Morrison v. Olson should have laid to rest the so-called separation of powers concern now being trumpeted to justify these political maneuvers within the Justice Department. Certainly no Republicans now defending this administration voiced concern when a panel of judges appointed Ken Starr to spend millions in taxpayer dollars going after President Clinton as a court-appointed prosecutor.

During committee consideration we heard from some who had not read what the Constitution says. The Constitution provides congressional power to direct the appointment power. In article II, the part of the Constitution that this administration reads as if it says that all power resides with the President, the President's appointment power is limited by the power of Congress. Indeed, between its provisions

calling for appointments with the advice and consent of the Senate and for the President's limited power to make recess appointments, the Constitution provides:

But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the Heads of Departments.

Just last week, the Eastern District of Arkansas joined at least two other courts addressing the interim appointment of U.S. attorneys, the First Circuit in Hilario, and the Ninth Circuit in United States v. Gantt, in concluding that U.S attorneys are ''inferior officers.'' Thus, the Constitution contemplates exactly what our statutes and practices had previously provided and what our bill will restore. Congress is well within its authority when it vests in the courts a share of the appointment power for those who appear before them.

One of the finest Attorneys General of the United States ever to serve was Robert H. Jackson. He also served as one of our most admired Justices on the U.S. Supreme Court. He was a principal prosecutor at the International Military Tribunal for German war criminals in Nuremberg after World War II.

The day after I was born, on April 1, 1940, as a new Attorney General, he spoke to the U.S. attorneys from across the country. They were assembled in the Great Hall at the Department of Justice in Washington. He told them about the responsibilities of being a Federal prosecutor. I think it is appropriate today to recall his guidance. His words serve to show the Senate and the American people how wrong this Administration's practices are and how far off the mark.

This is what then-Attorney General Jackson said and they are words that serve today. He said:

The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other base motives, he is one of the worst.

Because of this immense power to strike at citizens, not with mere individual strength, but with all of the force of government itself, the post of Federal District Attorney from the very beginning has been safeguarded by presidential appointment, requiring confirmation of the Senate of the United States.

Your responsibility in your several districts for law enforcement and for its methods cannot be wholly surrendered to Washington.

Robert H. Jackson continued:

If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: That he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted.

It is in this realm in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.

In times of fear or hysteria political, racial, religious, social, and economic groups, often for the best of motives, cry for the scalps of individuals or groups because they do not like their views. Those who are in office or apt to regard as ''subversive'' the activities of any of those who would bring about a change of administration.

Mr. President, I ask unanimous consent that a copy of Attorney General Jackson's full statement be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. Mr. President, I have said many times on this floor that one of the greatest opportunities I have ever had in my public life was to serve for 8 years as a prosecutor. Prosecutors have to be independent. Prosecutors have to prosecute without fear of favor. Prosecutors can never not prosecute someone because they are a Republican or Democrat; they have to do it because they have to uphold the law.

Let us restore the situation where our Federal prosecutors, whether we have a Democratic President or a Republican President, serve the law and not a political purpose. That is what prosecutors have to do. Many of us in this Chamber have served as prosecutors and know that is what we meant when we took our oath of office. Let's not have a system that at the outset subverts that oath of office.

I wish to commend Senator FEINSTEIN for leading this effort and Senator SPECTER, the ranking Republican on our committee, for joining her. We have all cosponsored the substitute to restore the statutory checks that existed. I commend the many Senators who contributed to this debate, including the majority leader, Senator KENNEDY, Senator DURBIN, both Senators from Arkansas, Senator WHITEHOUSE, Senator MCCASKILL, Senator SCHUMER, Senator MURRAY, Senator CARDIN, and Senator KLOBUCHAR.

Many speak from their own experiences as former prosecutors.

Let's pass this bill without amendments. We have a piece of legislation to protect the integrity of prosecutors and law enforcement. Let's pass it without amendment, pass it as it is, and strike a blow for the integrity of our Federal prosecutors and strike a blow for law enforcement. Because if you politicize a prosecutor, you politicize everybody in the whole chain of law enforcement. We should never do that. Let's pass this bill and restore integrity to Federal law enforcement.

Mr. President, I yield the floor.

EXHIBIT 1

THE FEDERAL PROSECUTOR

(By Robert H. Jackson, Attorney General of the United States, April 1, 1940)

It would probably be within the range of that exaggeration permitted in Washington to say that assembled in this room is one of the most powerful peace-time forces known to our country. The prosecutor has more control over life, liberty, and reputation than any other person in America. His discretion is tremendous. He can have citizens investigated and, if he is that kind of person, he can have this done to the tune of public statements and veiled or unveiled intimations. Or the prosecutor may choose a more subtle course and simply have a citizen's friends interviewed. The prosecutor can order arrests, present cases to the grand jury in secret session, and on the basis of his one-sided presentation of the facts, can cause the citizen to be indicted and held for trial. He may dismiss the case before trial, in which case the defense never has a chance to be heard. Or he may go on with a public trial. If he obtains a conviction, the prosecutor can still make recommendations as to sentence, as to whether the prisoner should get probation or a suspended sentence, and after he is put away, as to whether he is a fit subject for parole. While the prosecutor at his best is one of the most beneficent forces in our society, when he acts from malice or other base motives, he is one of the worst.

These powers have been granted to our law enforcement agencies because it seems necessary that such a power to prosecute be lodged somewhere. This authority has been granted by people who really wanted the right thing done—wanted crime eliminated—but also wanted the best in our American traditions preserved.

Because of this immense power to strike at citizens, not with mere individual strength, but with all the force of government itself, the post of Federal District Attorney from the very beginning has been safeguarded by presidential appointment, requiring confirmation of the Senate of the United States. You are thus required to win an expression of confidence in your character by both the legislative and the executive branches of the government before assuming the responsibilities of a federal prosecutor.

Your responsibility in your several districts for law enforcement and for its methods cannot be wholly surrendered to Washington, and ought not to be assumed by a centralized Department of Justice. It is an unusual and rare instance in which the local District Attorney should be superseded in the handling of litigation, except where he requests help of Washington. It is also clear that with his knowledge of local sentiment and opinion, his contact with and intimate knowledge of the views of the court, and his acquaintance with the feelings of the group from which jurors are drawn, it is an unusual case in which his judgment should be overruled.

Experience, however, has demonstrated that some measure of centralized control is necessary. In the absence of it different district attorneys were striving for different interpretations or applications of an Act, or were pursuing different conceptions of policy. Also, to put it mildly, there were differences in the degree of diligence and zeal in different districts. To promote uniformity of policy and action, to establish some standards of performance, and to make available specialized help, some degree of centralized administration was found necessary.

Our problem, of course, is to balance these opposing considerations. I desire to avoid any lessening of the prestige and influence of the district attorneys in their districts. At the same time we must proceed in all districts with that uniformity of policy which is necessary to the prestige of federal law.

Nothing better can come out of this meeting of law enforcement officers than a rededication to the spirit of fair play and decency that should animate the federal prosecutor. Your positions are of such independence and importance that while you are being diligent, strict, and vigorous in law enforcement you can also afford to be just. Although the government technically loses its case, it has really won if justice has been done. The lawyer in public office is justified in seeking to leave behind him a good record. But he must remember that his most alert and severe, but just, judges will be the members of his own profession, and that lawyers rest their good opinion of each other not merely on results accomplished but on the quality of the performance. Reputation has been called ''the shadow cast by one's daily life.'' Any prosecutor who risks his day-to-day professional name for fair dealing to build up statistics of success has a perverted sense of practical values, as well as defects of character. Whether one seeks promotion to a judgeship, as many prosecutors rightly do, or whether he returns to private practice, he can have no better asset than to have his profession recognize that his attitude toward those who feel his power has been dispassionate, reasonable and just.

The federal prosecutor has now been prohibited from engaging in political activities. I am convinced that a good-faith acceptance of the spirit and letter of that doctrine will relieve many district attorneys from the embarrassment of what have heretofore been regarded as legitimate expectations of political service. There can also be no doubt that to be closely identified with the intrigue, the money raising, and the machinery of a particular party or faction may present a prosecuting officer with embarrassing alignments and associations. I think the Hatch Act should be utilized by federal prosecutors as a protection against demands on their time and their prestige to participate in the operation of the machinery of practical politics.

There is a most important reason why the prosecutor should have, as nearly as possible, a detached and impartial view of all groups in his community. Law enforcement is not automatic. It isn't blind. One of the greatest difficulties of the position of prosecutor is that he must pick his cases, because no prosecutor can even investigate all of the cases in which he receives complaints. If the Department of Justice were to make even a pretense of reaching every probable violation of federal law, ten times its present staff would be inadequate. We know that no local police force can strictly enforce the traffic laws, or it would arrest half the driving population on any given morning. What every prosecutor is practically required to do it to select the cases for prosecution and to select those in which the offense is the most flagrant, the public harm the greatest, and the proof the most certain.

If the prosecutor is obliged to choose his cases, it follows that he can choose his defendants. Therein is the most dangerous power of the prosecutor: that he will pick people that he thinks he should get, rather than pick cases that need to be prosecuted. With the law books filled with a great assortment of crimes, a prosecutor stands a fair chance of finding at least a technical violation of some act on the part of almost anyone. In such a case, it is not a question of discovering the commission of a crime and then looking for the man who has committed it, it is a question of picking the man and then searching the law books, or putting investigators to work, to pin some offense on him. It is in this realm—in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the greatest danger of abuse of prosecuting power lies. It is here that law enforcement becomes personal, and the real crime becomes that of being unpopular with the predominant or governing group, being attached to the wrong political views, or being personally obnoxious to or in the way of the prosecutor himself.

In times of fear or hysteria political, racial, religious, social, and economic groups, often from the best of motives, cry for the scalps of individuals or groups because they do not like their views. Particularly do we need to be dispassionate and courageous in those cases which deal with so-called ''subversive activities.'' They are dangerous to civil liberty because the prosecutor has no definite standards to determine what constitutes a ''subversive activity,'' such as we have for murder or larceny. Activities which seem benevolent and helpful to wage earners, persons on relief, or those who are disadvantaged in the struggle for existence may be regarded as ''subversive'' by those whose property interests might be burdened or affected thereby. Those who are in office are apt to regard as ''subversive'' the activities of any of those who would bring about a change of administration. Some of our soundest constitutional doctrines were once punished as subversive. We must not forget that it was not so long ago that both the term ''Republican'' and the term ''Democrat'' were epithets with sinister meaning to denote persons of radical tendencies that were ''subversive'' of the order of things then dominant.

In the enforcement of laws which protect our national integrity and existence, we should prosecute any and every act of violation, but only overt acts, not the expression of opinion, or activities such as the holding of meetings, petitioning of Congress, or dissemination of news or opinions. Only by extreme care can we protect the spirit as well as the letter of our civil liberties, and to do so is a responsibility of the federal prosecutor.

Another delicate task is to distinguish between the federal and the local in law enforcement activities. We must bear in mind that we are concerned only with the prosecution of acts which the Congress has made federal offenses. Those acts we should prosecute regardless of local sentiment, regardless of whether it exposes lax local enforcement, regardless of whether it makes or breaks local politicians.

But outside of federal law each locality has the right under our system of government to fix its own standards of law enforcement and of morals. And the moral climate of the United States is as varied as its physical climate. For example, some states legalize and permit gambling, some states prohibit it legislatively and protect it administratively, and some try to prohibit it entirely.

The same variation of attitudes towards other law-enforcement problems exists. The federal government could not enforce one kind of law in one place and another kind elsewhere. It could hardly adopt strict standards for loose states or loose standards for strict states without doing violence to local sentiment. In spite of the temptation to divert our power to local conditions where they have become offensive to our sense of decency, the only long-term policy that will save federal justice from being discredited by entanglements with local politics is that it confine itself to strict and impartial enforcement of federal law, letting the chips fall in the community where they may. Just as there should be no permitting of local considerations to stop federal enforcement, so there should be no striving to enlarge our power over local affairs and no use of federal prosecutions to exert an indirect influence that would be unlawful if exerted directly.

The qualities of a good prosecutor are as elusive and as impossible to define as those which mark a gentleman. And those who need to be told would not understand it anyway. A sensitiveness to fair play and sportsmanship is perhaps the best protection against the abuse of power, and the citizen's safety lies in the prosecutor who tempers zeal with human kindness, who seeks truth and not victims, who serves the law and not factional purposes, and who approaches his task with humility.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that between the votes there be 2 minutes equally divided in the usual fashion.

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

The Senator from Arizona is recognized.

Mr. KYL. Mr. President, the first vote will be on the amendment which I have offered which solves the problem that has been described here, unlike the underlying bill which does not solve the problem.

The problem is that the U.S. Attorney General can appoint interim attorneys and the Senate doesn't have a chance to confirm them. My amendment repeals that section of the law; the underlying bill does not. So it is still possible in the future, under the underlying bill, for the Attorney General to appoint interim U.S. attorneys without Senate confirmation. If he doesn't do that, then a Federal district judge makes the appointment, again without the Senate having the ability to act on the nomination. Again, my amendment solves that problem by requiring the President to nominate a candidate for U.S. attorney and requiring the Senate to act on that nomination. Should the President not fulfill his responsibility, the requirements for the Senate to act are vitiated. So there is a powerful incentive for the President to nominate.

The underlying bill reinstates the old law. The Senator from California has said the old system, which is the basis for her legislation, has worked well for 20 years. It hasn't worked well. The Senate has no ability to act on a nominee when there is no nominee. Under the existing law, the district court judge appoints the U.S. attorney. We have no ability to say yes or no to that individual. So I would argue that, from the Senate's prerogative and point of view, it has not worked well.

Secondly, yesterday, I noted two situations, one in the district for West Virginia in 1987, where the system of having a Federal judge appoint the

U.S. attorney did not work well at all. It is a case that perhaps the Presiding Officer is aware of. Eventually, the Justice Department had to remove the investigative files from the U.S. Attorney's Office and had to direct the nominee to recuse herself from some criminal matters until a background check could be effectuated. The situation was not resolved until another U.S. attorney was approved by the Senate.

We had the odd situation 2 years ago in South Dakota where we ended up having two U.S. attorneys serving at the same time because of the appointment by a district judge. The point is, the old system did not work well. In any event, the Senate has no say in the matter when a district judge appoints the U.S. attorney.

Conclusion: We have all recognized a problem exists. The problem is a U.S. attorney can be appointed without the Senate ever having a say in it, either by the Attorney General, as an interim, or by a district judge. The underlying bill permits both of those practices to continue. My amendment precludes both of those practices. It eliminates the Attorney General's ability to appoint an interim U.S. attorney and it eliminates the district court's ability to do so. It puts the responsibility where it belongs, on the shoulders of the President and the Senate.

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

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

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN) and the Senator from Arizona (Mr. MCCAIN).

The PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—40

Allard	Enzi	Nelson (NE)
Bennett	Graham	Roberts
Bond	Grassley	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Smith
Burr	Hutchison	Specter
Chambliss	Inhofe	Stevens
Cornyn	Isakson	Thomas
Craig	Kyl	Thune
Crapo	Lott	Vitter
DeMint	Lugar	Voinovich
Dole	Martinez	Warner
Domenici	McConnell	
Ensign	Murkowski	

NAYS—56

Akaka	Bayh	Brown
Alexander	Bingaman	Byrd
Baucus	Boxer	Cantwell
Cardin	Inouye	Obama
Carper	Kennedy	Pryor
Casey	Kerry	Reed
Clinton	Klobuchar	Reid
Cochran	Kohl	Rockefeller
Coleman	Landrieu	Salazar
Collins	Lautenberg	Sanders
Conrad	Leahy	Schumer
Corker	Levin	Snowe
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	Sununu
Durbin	McCaskill	Tester
Feingold	Menendez	Webb
Feinstein	Mikulski	Whitehouse
Harkin	Murray	Wyden
Hatch	Nelson (FL)	

NOT VOTING—4

Biden	Johnson
Coburn	McCain

The amendment (No. 459) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the next two votes be 10 minutes in duration.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, it is so ordered.

AMENDMENT NO. 460

Under the previous order, there will now be 2 minutes of debate, equally divided, on the amendment offered by the Senator from Alabama, Mr. SESSIONS.

Mr. SESSIONS. Mr. President, am I recognized under the agreement for 1 minute?

The PRESIDENT pro tempore. The Senator is recognized.

Mr. SESSIONS. Mr. President, this is a friendly amendment to the Feinstein amendment. It would simply eliminate the difficulty that has occurred over the years when Federal judges, given the power of appointment, have appointed individuals who do not have security clearances and aren't able to function in the office, aren't able to participate in sensitive cases.

I would note that in recent years, U.S. attorneys have been given substantial responsibility against terrorism.

In every U.S. Attorney's Office today, there are the most highly secure telephones. They are wired into the most serious terrorism situations that might occur, and they become a coordinating officer in many instances. This would eliminate the danger of a judge appointing someone not qualified to participate as an effective member of that team because they lack the security clearance. It would require appointing someone with law enforcement experience and security clearance. This is a technical amendment. I ask my colleagues to support it.

The PRESIDENT pro tempore. There will be order in the Senate.

The Senator may proceed.

Mr. SESSIONS. This is a technical but important amendment that guarantees that any appointee to the office of U.S. attorney, a critical component in our law enforcement and terrorism matters, will have the required security clearance.

I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Vermont.

Mr. LEAHY. Mr. President, we are trying to put the law back to the way it was before this little amendment was slipped into the PATRIOT Act. We should oppose the amendment of the Senator from Alabama. It would not put it back the way it was. Actually, under this amendment, the Senator from Alabama could not have been appointed U.S. attorney, and former Attorney General Thornburg and former Deputy Attorney General Larry Thompson could not have been.

The President should move quickly to appoint the U.S. attorney if there is a vacancy, but in the meantime, the judges are in the best position to appoint somebody. I hope a district court never has to make an appointment. But let's assume you have a case where there is widespread corruption. The judge has to be able to put in someone independent. It worked well for 100 years. It was changed by something slipped into the PATRIOT Act. Let's go back to the way we were, Mr. President.

I oppose this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 47, nays 50, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—47

Alexander	DeMint	McCaskill
Allard	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Bunning	Graham	Shelby
Burr	Grassley	Snowe
Chambliss	Gregg	Specter
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Thomas
Collins	Isakson	Thune
Corker	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	

NAYS—50

Akaka	Cardin	Feingold
Baucus	Carper	Feinstein
Bayh	Casey	Hagel
Bingaman	Clinton	Harkin
Boxer	Conrad	Inouye
Brown	Dodd	Kennedy
Byrd	Dorgan	Kerry
Cantwell	Durbin	Klobuchar

Kohl	Murray	Sanders
Landrieu	Nelson (FL)	Schumer
Lautenberg	Nelson (NE)	Smith
Leahy	Obama	Stabenow
Levin	Pryor	Tester
Lieberman	Reed	Webb
Lincoln	Reid	Whitehouse
Menendez	Rockefeller	Wyden
Mikulski	Salazar	

NOT VOTING—3

Biden	Johnson	McCain

The amendment (No. 460) was rejected.

Mr. LEAHY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I have come to the floor today to speak in support of S. 214, Senator FEINSTEIN's legislation to restore the independence of our U.S. attorneys. Like many in this body, I have watched in dismay as more and more details of this administration's efforts to fire Federal prosecutors and replace them with loyal partisans have become public. There has been a great deal of discussion of these facts on the floor of this Senate—the fact that those U.S. attorneys who were fired were criticized in one e-mail for not being ''loyal Bushies,'' and the fact that many of these U.S. attorneys had received glowing personnel reviews in the time leading up to their firings.

But one of the facts that I think we are losing sight of in this debate is the critical role that U.S. attorneys play in this country. These are incredibly important jobs, and the people that hold them are responsible for overseeing the most complex and serious prosecutions of the most treacherous crimes. U.S. attorneys around the country are responsible for overseeing major conspiracy cases including organized crime, large-scale drug trafficking by organized gangs, terrorism, and political corruption.

While these are political appointments, in the past, mere political loyalty was not generally sufficient to get you the job. In the past, under both Republican and Democratic administrations, you also needed to have the support of the legal community in the district and to have demonstrated solid legal skills. Ensuring that people who were known in the community and had the necessary judgment, skills, and independence to fulfill the demands of these positions is the reason that home State Senators are consulted.

It is because the importance of these positions has long been recognized on a bipartisan basis that it is simply astonishing that this administration gave real consideration to summarily dismissing all 94 U.S. attorneys. Even more appalling is that the Attorney General, the man who earlier this year told the Judiciary Committee that he would ''never ever make a change in the United States attorney position for political reasons,'' was involved in those discussions.

As difficult as it is to believe that the administration seriously considered wholesale replacement of the U.S. attorneys, it is even more troubling that they proceeded to summarily dismiss eight prosecutors for very murky reasons and then tried to justify their actions as performance based. Given that each of the prosecutors underwent a detailed favorable review, it has become very clear that this is simply not true.

More troubling still is that at least three of the fired prosecutors were involved in political corruption probes that were not proceeding in a way that the administration viewed as politically favorable, and in at least two of these cases lawmakers and their staff personally intervened with the prosecutors.

As if a large-scale effort to fire lead Federal prosecutors for political reasons wasn't sufficient, the Department of Justice clearly intended to replace sitting prosecutors with highly political White House and other administration staffers on an ''interim'' basis without sending them to the Senate for confirmation. That is what this bill before us today addresses. It revokes the ability of the Attorney General to appoint an interim U.S. attorney for an indefinite period of time and thus avoid the Senate confirmation process. This is just one of the problematic provisions slipped into the PATRIOT Act and I commend Senator FEINSTEIN for her efforts to bring this issue to light and to restore the balance to the process of appointing U.S. attorneys.

While the Deputy Attorney General has insisted that it wasn't the intent of the Department of Justice to avoid Senate confirmation, this has been flatly contradicted by the documents. In discussing the appointment of Karl Rove's Deputy Tim Griffin as the ''interim'' U.S. attorney in Arkansas, the former Chief of Staff to Attorney General Gonzales, Kyle Sampson, wrote in December 2006: ''I think we should gum this to death . . . Ask the senators to give Tim a chance, meet with him, give him some time in office to see how he performs, etc. If they ultimately say 'no never' (and the longer we can forestall that the better), then we can tell them we'll look for other candidates, ask them for recommendations, interview their candidates, and otherwise run out the clock. All this should be done in 'good faith' of course.''

The decision to fire the U.S. attorneys was finalized after the elections and the knowledge that Democrats would be taking control of the Senate. But even so, it raises the question of why the White House would feel it necessary to avoid Senate confirmation. After all, many of the current U.S. attorneys were confirmed smoothly under Democratic control in 2001 and 2002. Again, Kyle Sampson has the answer for us. In an early email, he laid out the benefits of avoiding the Senate stating: ''we can give far less deference to home-state senators and thereby get (1) our preferred person appointed and (2) do it far faster and more efficiently, at less political cost to the White House.''

This bill before us today restores the status quo prior to the renewal of the PATRIOT Act last fall by repealing the ability of the Administration to appoint ''interim'' U.S. attorneys for indefinite periods of time. I am glad the administration has dropped its opposition to this bill, and I look forward to seeing the President sign this bill in to law. But this exercise has been an eye-opener for those of us in the Senate, and I hope for the American people, about the contempt this administration has for the Congress and the willingness of the administration to politicize any and every office. It has also, once again, underscored the value of oversight into our system of government. For the past 6 years, this administration has operated without any independent check on its power. But those days are over. By passing this legislation and beginning the necessary work to restore the integrity of our Nation's U.S. attorneys, we can begin to restore Americans faith in our system of justice.

Mrs. BOXER. Mr. President, I wish to express my support for S. 214, which would serve to protect the independence of our U.S. attorneys.

The administration's attack on sitting U.S. attorneys is an unprecedented abuse of power. The White House and the Attorney General injected politics into the process and chose to fire eight U.S. attorneys, including our U.S. attorney in San Diego, Carol Lam. These attorneys were not fired because of poor job performance, as the Attorney General initially claimed, but because in one way or another they did not carry out the political agenda of the White House.

Despite the administration's efforts to downplay and spin these events to Congress, we now know that this plan was orchestrated at the highest levels of the White House. For example, Karl Rove misled the public when he asserted that the Justice Department's action was comparable to President Clinton's actions. This is untrue. No administration has ever lashed out and fired a group of their own U.S. attorneys in the middle of a term.

There is an immediate need for legislation to ensure that the administration can no longer appoint new U.S. attorneys without Senate confirmation. I thank my colleague, Senator FEINSTEIN, for her superb leadership on this issue.

Mr. LEVIN. Mr. President, time and time again we have seen this administration's inability to divorce politics from policy in areas that politics should have no place. The recent firing of eight U.S. attorneys lends yet another example to that failure. It is clear that some of these firings were politically motivated. I support S. 214 and have cosponsored this legislation because it will restore the 120-day limit for interim appointments made by the

Attorney General and restore the district court's role in making any subsequent interim appointments to deter the kind of Department of Justice actions we have seen recently.

Until 1986, interim U.S. attorneys were appointed by their respective district courts and were allowed to serve until the vacancy was filled by a U.S. attorney nominated by the President and confirmed by the Senate. In 1986, the law was changed to allow the Attorney General to make an interim appointment for 120 days, provided the appointee was not a person for whom the Senate had refused to give advice and consent. If a successor was not named at the end of the 120-day period, then the district court would appoint a U.S. attorney to serve until the vacancy was filled. This process remained unchanged for 20 years, until last year.

During the PATRIOT Act Reauthorization last year, the process was altered to eliminate appointments by the district court and to allow the Attorney General to appoint an interim U.S. attorney indefinitely, or until the vacancy is filled by a U.S. attorney nominated by the President and confirmed by the Senate.

The legislation before us today is simple: it would repeal those changes, which were made without debate, and would require an interim appointment made by the Attorney General to expire after 120 days or when a successor is nominated by the President and confirmed by the Senate, whichever comes first. If at the end of the 120-day period no successor has been confirmed, the relevant district court would be authorized to appoint an interim U.S. attorney to serve until the vacancy is filled. The legislation would also terminate existing interim appointments 120 days from enactment or upon confirmation of a successor, whichever comes first.

We all know that U.S. attorneys serve at the pleasure of the President. However, U.S. attorneys are supposed to be loyal to the Constitution, not the President and Attorney General. When they are sworn in, U.S. attorneys swear to ''support and defend the Constitution of the United States against all enemies, foreign and domestic.'' There is no requirement that U.S. attorneys ''exhibit loyalty to the President and Attorney General,'' as was said to be a goal in an e-mail from Kyle Sampson, former chief of staff to Attorney General Gonzales, recommending the retention of those attorneys.

One of the U.S. attorneys who was asked to resign was Margaret Chiara, U.S. attorney for the Western District of Michigan. In an e-mail dated March 2, 2005, Kyle Sampson wrote to then White House Counsel Harriet Miers, designating Ms. Chiara as one of the U.S. attorneys who was recommended for removal because she was one of the ''weak U.S. attorneys who have been ineffectual managers and prosecutors, chafed against Administration initiatives, etc.'' That assessment ran contrary to the Department of Justice's evaluation of Ms. Chiara, which found her to be well regarded, hard working and a capable leader who had the respect and confidence of the judiciary, agencies, and U.S. Attorney's Office personnel. Further, during Ms. Chiara's tenure as the U.S. attorney from the Western District of Michigan, she achieved an overall increase of more than 15 percent in felony prosecutions and convictions (the Northern Division alone experienced an increase of 84 percent in the number of criminal cases prosecuted during the 2-year period of 2003–2005). The Department of Justice invited Ms. Chiara to serve on several key subcommittees of the Attorney General's Advisory Committee. Ms. Chiara developed an attorney training and mentoring program for the Western District of Michigan that now serves as a national model that was acknowledged as a ''best practice'' by the Department of Justice. Ms. Chiara was awarded the ''Building Bridges Award'' by the Arab-American Anti-Discrimination Committee, and ''Lifetime Achievement Recognition'' by the Women's Historical Center and Michigan Women's Hall of Fame.

On December 7, 2006, Mr. Sampson e-mailed William Mercer, then acting Associate Attorney General, stating that ''All Senators have been notified and are fine/no objections.'' Apparently Republican Senators were contacted, but Democrats were not contacted. This Senator was not notified. In fact, the ''Plan for Replacing Certain United States Attorneys'' drafted by Mr. Sampson, states that, on December 7, ''where there is no Republican home-state Senator, the home-state 'Bush political lead[s]' are contacted.'' Obviously, it was more important to contact the ''political lead'' than the home-state Senators of these U.S. attorneys, which is further evidence that these firings had political motivations.

I am pleased that we will pass this important legislation today, to restore integrity and political confidence to the process of filling the vacancies of U.S. attorneys. I am also pleased that the Judiciary Committee will continue their investigation into this matter by issuing subpoenas, if necessary.

Mrs. CLINTON. Mr. President, as part of the PATRIOT Act's reauthorization in 2006, Congress bestowed upon the Attorney General new authority to appoint interim U.S. attorneys indefinitely, without any independent oversight. The Department of Justice proceeded to abuse this provision to orchestrate a series of firings of U.S. attorneys. An ever-growing body of evidence reveals that the firings were little more than a political purge. To defend its conduct, the Department of Justice gave Congress misleading testimony about these politically motivated firings, tarnishing the professional reputations of these U.S. attorneys in the process. Sadly, this is only the latest in a long series of episodes that call into question the independence and the leadership of an Attorney General more concerned with advancing a partisan agenda than impartially enforcing the law. It is unacceptable that the Attorney General has allowed his loyalty to the President to politicize the Department of Justice and corrupt the administration of justice. Because his conduct is unbecoming an Attorney General, I have called on Attorney General Alberto Gonzales to resign his post.

For these same reasons I support and am a cosponsor of Senator FEINSTEIN's Preserving United States Attorney Independence Act of 2007, which would reinstate the process for the appointment of interim U.S. attorneys that existed for 20 years prior to 2006. Senator FEINSTEIN's legislation would authorize the Attorney General to make an interim appointment for 120 days. If a successor is not named and confirmed by the Senate at the end of the 120-day period, then the relevant district court must appoint a U.S. attorney to serve until the vacancy is filled. The legislation's provisions are also retroactive, meaning it would also terminate existing interim appointments 120 days from its enactment, or upon confirmation of a successor, whichever comes first. The legislation is an important measure that will make great strides toward restoring the historic independence of the U.S. attorneys.

But even with the passage of this legislation, there is still a lot of explaining to be done by the Attorney General and the Bush administration. Numerous questions remain about who called for the U.S. attorney firings, what specific reasons were cited to justify the firings, and to what extent the White House participated in the decision to achieve political ends. The Attorney General and the President and their respective staffs need to be forthcoming with explanations and documents that answer these and other questions and end the current practice of providing misleading, inconsistent, and unclear responses.

Some have attempted to defend the Attorney General's inexcusable behavior by positing arguments that divert attention away from what really occurred. First, much has been made of the fact that these fired U.S. attorneys served at the pleasure of the President and thus were subject to dismissal at any time. The administration's desire to have U.S. attorneys engage in politically motivated investigations in direct violation of their obligation to impartially enforce the law cannot serve as proper grounds for dismissal. Terminating these Federal prosecutors because they refused to serve as partisan henchmen cannot be the source of the President's displeasure.

Further, the assertion that the Clinton administration engaged in similar misdeeds is also baseless. Holdover U.S. attorneys appointed by a previous administration are routinely replaced by the new incoming President. Even Stuart M. Gerson, Assistant Attorney General in the administration of President

George H.W. Bush, observed, ''It is customary for a President to replace U.S. attorneys at the beginning of a term.'' This practice allows the new President to appoint new Federal prosecutors who share his or her priorities and strategy for fighting crime. You will find similar turnover when President Bush replaced President Clinton in 2001 and when President Reagan replaced President Carter in 1981.

The firings we are seeing today are nothing like what happened in 1981, 1993, or 2001. The essential question here is why were these U.S. attorneys—President Bush's own appointees—fired in the middle of his second term. There is substantial evidence that the Bush administration fired them for political reasons: for pursuing corruption charges against Republicans too aggressively, for failing to prosecute Democrats aggressively enough, or for not pursuing what one U.S. attorney described as ''bogus'' election claims against Democrats and public interest groups in the months leading up to the 2006 elections. This incursion on the independence of U.S. attorneys is unacceptable conduct, and the Attorney General and administration must be honest with the American people about what happened.

The Attorney General took an oath to uphold our Constitution and respect the rule of law. But time and time again, he has demonstrated that his loyalties lie with the President and his political agenda, not the American people or the evenhanded and impartial enforcement of our laws. In executing the White House's political directives by firing U.S. attorneys who would not carry out the administration's partisan witch hunts, the Attorney General undermined the objectives of the Department of Justice, putting politics ahead of the just enforcement of the law. The Department of Justice should not serve as a political arm of any party, and U.S. attorneys should not double as political operatives. The administration's insistence to the contrary and the Attorney General's complicity are a betrayal of the highest order to the fundamental mission of the Department of Justice to ensure fair and impartial administration of justice for all Americans.

Attorney General Gonzales acknowledges that ''mistakes'' were made in the dismissal of these U.S. attorneys and maintains that responsibility for these unjustified firings lies with him. I agree. Because he has betrayed his obligations and the trust of the American people, Attorney General Gonzales should resign his post as head of the Department of Justice.

Mr. FEINGOLD. Mr. President, last week the Senate Judiciary Committee held its second hearing on the unprecedented dismissal of eight U.S. attorneys in December. In the past few days, increasingly disturbing information has come to light that suggests that Congress was intentionally misled with regard to why these U.S. attorneys were fired and who was involved in making the decision to fire them. Under the leadership of Chairman LEAHY and Senator SCHUMER, the Judiciary Committee will continue to investigate these matters in the coming weeks.

But today, we will vote on legislation to repeal a change in the law that apparently helped to bring about these unfortunate events. I will vote in favor of S. 214 and against both amendments that have been offered.

In many ways, U.S. attorneys are the face of the Federal Government and of Federal law in our local jurisdictions. They make crucial decisions on how federal law will be enforced. To faithfully execute the law, they must be able to exercise that essential prosecutorial discretion that distinguishes our criminal justice system from a mere draconian rule book that is applied without regard for the circumstances of each individual case. Who fills these positions in our system is a matter of great consequence. That is why they are subject to confirmation by the Senate.

In Wisconsin, we take the nomination process for our two U.S. attorneys, and the participation of the Senate in that process, very seriously. In 1979, Senators William Proxmire and Gaylord Nelson created the Wisconsin Federal Nominating Commission to advise them on judicial and U.S. attorney nominations. The Commission process has been used for over a quarter century, by both Republican and Democratic senators from our State under both Republican and Democratic Presidents.

The Commission operates whenever a vacancy occurs for a Federal judge or U.S. attorney position in Wisconsin. The Commission reviews applications and then makes recommendations to the Senators. The two Wisconsin Senators, now Senator KOHL and myself, choose from those recommended by the Commission in making our recommendations to the President. This bipartisan Commission helps ensure that dedicated and qualified individuals fill the positions. It gives our citizens additional assurance that these important nominations are made based on merit, not politics. I believe commissions like this are a particularly reliable and transparent form of filling these vacancies.

That is one reason that I feel so strongly that the change made during the PATRIOT Act reauthorization process to the process for appointing interim U.S. attorneys was a mistake: It allows the Justice Department to sidestep the confirmation process for U.S. attorneys altogether. There is simply no good reason why the Attorney General needs the power to make indefinite interim appointments. When it exercises that power, the administration cuts Congress, and in the case of my state, the people of Wisconsin, out of that process.

As some of the recently released emails from the Attorney General's chief of staff reveal, this change in law allowing the Attorney General to make indefinite interim appointments was going to be used to circumvent congressional involvement and instead install preselected ''interim'' replacements for the fired U.S. attorneys with no intention to seek Senate confirmation. Worse yet, the emails indicate that the Department of Justice was actively planning to pretend it was following a traditional confirmation process ''in good faith.'' Such blatant disregard for Congress's legitimate role in this process—and for the integrity of a three branch system of government in general—is simply unacceptable.

S. 214 will repeal the provision that prompted this plan to circumvent the confirmation process. Enacting this bill is an important start in preventing further abuses.

I want to note that the concerns expressed by some of my colleagues about the involvement of the district courts in making interim appointments just don't ring true. Beginning in the late 1800s, and continuing until the fiasco of this past year, district courts were involved in the interim appointment process. In the time that the district courts were involved, either exclusively—until 1986—or as a fail-safe after the Attorney General exercised a temporary appointment power—from 1986–2006—the interim appointment process went smoothly. Never before have we seen an administration hatch a plan to replace a large number of U.S. attorneys in the middle of a term for what appear to be political reasons. The reason, of course, is that until this year, individuals appointed on an interim basis could only serve for 120 days without Senate confirmation.

By repealing this clearly ill-advised change to interim appointment power and returning to the law used for the previous 20 years, S. 214 allows for the needed flexibility to accommodate short-term interim appointments made by the Attorney General while also ensuring that the Senate confirmation process remains in place for permanent appointments. And the Senate confirmation process allows states like mine to encourage a transparent and accountable selection process for these important positions.

These are grave matters, for it is absolutely vital that our citizens be able to rely on the integrity of the justice system. It is equally important that they have confidence that individuals who represent the Federal Government in the justice system are above reproach, and are acting in the interest of justice—and not politics—at all times. Even an appearance of impropriety can harm our judicial system and, in turn, harm the rule of law by undermining citizens' confidence in its integrity.

Whatever role political motivations played in the dismissals of these U.S. attorneys—and each day more evidence surfaces to suggest that politics did, in fact, play quite a large role—I think it

is clear that the administration has not acted in a manner that upholds the best interests of law enforcement and the reputation of our criminal justice system. We have a duty to remedy this problem, and passing S. 214 is an important step towards doing so.

We must ensure that there is, once again, some accountability in how U.S. attorneys are selected to serve. It is the very least that we can do to help restore the public's confidence that our criminal justice system is above partisan interference.

Mr. BYRD. Mr. President, Robert Browning, a brilliant British poet, once wrote a stirring poem about an unpleasant subject, namely: Rats.

A key section of the poem reads as follows:

Out of the houses the rats came tumbling.
Great rats, small rats, lean rats, brawny rats,
Brown rats, black rats, gray rats, tawny rats.
Grave old plodders, gay young friskers,
Fathers, mothers, uncles, cousins,
Cocking tails and pricking whiskers,
Families by tens and dozens,
Brothers, sisters, husbands, wives—
Followed the Piper for their lives.

Mr. President, it is gotten so that, every morning when I open the paper and see another story describing the administration's incompetence or wrongdoing, Robert Browning's vision of administration wrongdoers tumbling out of the house comes into my mind. ''Brothers, sisters, husbands, and wives,'' who followed the misled Piper—in this case, the President, ''for their lives.'' And they may pay dearly, as a result. Just as the entire country is now paying dearly for the arrogant, reckless and misguided policies of this Administration.

We see more clearly, every day, that the executive branch of our Government is in dire need of a thorough housecleaning, to rid itself of the conniving agents lodged in its bureaus, who apparently will stop at nothing to grab power for the Executive at the expense of the Congress and the People who send us here to represent them.

Last year, in one of several bills reauthorizing the PATRIOT Act—all of which I voted against—a small provision was added by the then-Republican majority. It enabled administration officials to fire any U.S. attorney whose politics they did not like and replace them with what in Las Vegas are called ''shills.'' The word shill is defined by Webster's Dictionary to mean, ''one who acts as a pitchman''—in this case, for the administration.

The provision, which was tucked into the PATRIOT Act reauthorization, permits the administration to fire and appoint new U.S. attorneys, whose term in office can be indefinite and never subject to Senate confirmation. What an abomination!

I was one of only ten U.S. Senators who voted against the legislation that made this possible, and, in retrospect, I am feeling quite proud of that vote.

A U.S. attorney is supposed to be the chief Federal law enforcement officer in his or her state. It is critical that U.S. attorneys be able to enforce the law and perform their duties, free of political pressure to achieve a partisan end. Federal law is to be applied fairly and objectively; not to fuel a political witch hunt or to feather the nest of a political contributor.

This White House has made it crystal clear that it has no respect for the separation of powers; no respect for our constitutional system of checks and balances; and no respect for even the rule of law, going so far as to pervert the appointment of U.S. attorneys for its own partisan purposes.

Well, key officials in this administration may be in for a rude awakening. The rule of law remains alive and well in the hearts of most Americans. If our laws apply to the American people, must they not also apply to the Justice Department? And to the White House? Imagine how baffled the American public must be to hear that the nation's chief law enforcement officer, U.S. Attorney General Alberto Gonzales, defends the administration's actions as follows: in the March 14 Washington Post, Attorney General Gonzales stated that he knew nothing of the scandal surrounding this issue, because he ''was not involved in seeing any memos, was not involved in any discussions about what was going on,'' and, he said, ''that's basically what I knew as the attorney general.''

Is that possible? Isn't that preposterous? Are we really to believe that, as head of the Justice Department, the chief law enforcement officer of the nation knew nothing about efforts to replace a plethora of U.S. attorneys nationwide? Which is worse: that he knew nothing that his Deputy was doing, or, instead, that he did know there was a scheme in place, hatched by the White House, to evade congressional oversight?

The administration's appointment of these U.S. attorneys constitutes a serious breach of the public trust. Americans don't want law enforcement officials appointed based on their good looks, family connections, or because the Republican National Committee wants to groom them to run for Congress some day. U.S. attorneys should be nominated and confirmed by the Senate based on merit. Only the Constitution affords the people the powers and the prerogatives that keep us a free nation. The constitutional doctrines of checks and balances and separation of powers are the foundations of our government, so brilliantly formulated by the Founders in 1787. My long study of constitutional history and a lifetime of public service have made me keenly aware of why so many Americans have given their lives to protect these basic principles. This is why we must continue to fight to ensure that our constitutional rights and privileges are never undermined or trampled by an ambitious, overly zealous executive branch like the one now in the White House. That is why we must enact S. 214—to restore the Senate's role in the confirmation of U.S. attorneys. The Founders granted the Senate the power of confirmation, precisely so that we could prevent a corrupt White House from undertaking exactly the indefensible actions that this White House has embraced with respect to the appointment of U.S. attorneys. Let us put a stop to those actions right here and right now.

Let us begin today to clean the house and rid our ship of state of the pests that gnaw away at our constitutional protections.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I believe there are 2 minutes equally divided. I simply ask all Senators, send a very strong signal. We want to correct the mistake made in the PATRIOT Act, a mistake that has been utilized the wrong way. We want to go back to the appointment of U.S. attorneys the way they should be appointed. We want to have the advice and consent of the Senate. I urge all Senators to vote for the legislation Senator FEINSTEIN and I and Senator SPECTER and others have introduced.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered. 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 South Dakota (Mr. JOHNSON), and the Senator from Maryland (Ms. MIKULSKI) are necessarily absent.

I further announce that, if present and voting, the Senator from Maryland (Ms. MIKULSKI) would vote ''yea.''

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 94, nays 2, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—94

Akaka	Casey	Dorgan
Alexander	Chambliss	Durbin
Allard	Clinton	Ensign
Baucus	Coburn	Enzi
Bayh	Cochran	Feingold
Bennett	Coleman	Feinstein
Bingaman	Collins	Graham
Boxer	Conrad	Grassley
Brown	Corker	Gregg
Brownback	Cornyn	Harkin
Bunning	Craig	Hatch
Burr	Crapo	Hutchison
Byrd	DeMint	Inhofe
Cantwell	Dodd	Inouye
Cardin	Dole	Isakson
Carper	Domenici	Kennedy

Kerry	Murkowski	Snowe
Klobuchar	Murray	Specter
Kohl	Nelson (FL)	Stabenow
Kyl	Nelson (NE)	Stevens
Landrieu	Obama	Sununu
Lautenberg	Pryor	Tester
Leahy	Reed	Thomas
Levin	Reid	Thune
Lieberman	Roberts	Vitter
Lincoln	Rockefeller	Voinovich
Lott	Salazar	Warner
Lugar	Sanders	Webb
Martinez	Schumer	Whitehouse
McCaskill	Sessions	Wyden
McConnell	Shelby	
Menendez	Smith	

NAYS—2

Bond	Hagel

NOT VOTING—4

Biden	McCain
Johnson	Mikulski

The bill (S. 214), as amended, was passed, as follows:

S. 214

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preserving United States Attorney Independence Act of 2007''.

SEC. 2. VACANCIES.

Section 546 of title 28, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) A person appointed as United States attorney under this section may serve until the earlier of—

''(1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or

''(2) the expiration of 120 days after appointment by the Attorney General under this section.

''(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.''.

SEC. 3. APPLICABILITY.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—

(1) IN GENERAL.—Any person serving as a United States attorney on the day before the date of enactment of this Act who was appointed under section 546 of title 28, United States Code, may serve until the earlier of—

(A) the qualification of a United States attorney for such district appointed by the President under section 541 of that title; or

(B) 120 days after the date of enactment of this Act.

(2) EXPIRED APPOINTMENTS.—If an appointment expires under paragraph (1), the district court for that district may appoint a United States attorney for that district under section 546(d) of title 28, United States Code, as added by this Act.

Mr. SALAZAR. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. SALAZAR. Mr. President, I ask unanimous consent that at 2:15 p.m. today, the Senate proceed to the consideration of calendar No. 82, S. Con. Res. 21, the concurrent budget resolution.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SALAZAR. Mr. President, I ask unanimous consent to be permitted to speak for up to 10 minutes as in morning business.

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

PRESERVING UNITED STATES ATTORNEY INDEPENDENCE ACT

Mr. SALAZAR. Mr. President, I am very proud to have supported the Preserving United States Attorney Independence Act we just passed in the Senate. This bill will go a long way toward restoring the independence of Federal prosecutors—an independence which has, unfortunately, been chipped away at in recent months and years.

I have been disappointed to watch the drama unfolding over the past few weeks regarding the politicization of our justice system. Every day, as the Judiciary Committee continues its investigation, we see more revelations of how the Department of Justice may have allowed portions of the U.S. attorney corps to become a vehicle for political patronage—this despite the fact that U.S. attorneys are among the most powerful public officials in our country, making virtually unreviewable decisions about life and death, about punishment and leniency. They make these kinds of decisions every single day all across this country.

The U.S. attorneys must be individuals who have integrity. They must be above reproach. They must be free from any kind of partisan political interference.

I am disappointed the Department of Justice may have blurred the line between the representation of President Bush as a client and the representation of the people of the United States. I understand that distinction very well, having served both as chief counsel to the Governor of my State as well as attorney general for the State of Colorado. Those are two very different positions. One requires—in the case of chief counsel to the Governor or chief counsel to the President—a lawyer-client relationship. The other—Attorney General—requires the representation of the people whom you represent. In the case of a State attorney general, you are the representative of the people of that State. In the case of the U.S. Attorney General, you are the representative of the people of the United States of America.

If Attorney General Gonzales has, indeed, crossed this line, then in my view he has forfeited his right to lead the Department of Justice.

On January 28, 2005, I received a letter from Attorney General Gonzales as part of his confirmation process in this U.S. Senate. In that letter he reflected upon his understanding of the independence of the Office of the Attorney General. I quote in part from that letter where he says the following:

If confirmed, I will lead the Department of Justice and act on behalf of agencies and officials of the United States. Nevertheless, my highest and most solemn obligation will be to represent the interests of the People. I know that you understand this solemn duty well from your prior service as Chief Counsel to the Governor and as Colorado Attorney General.

I would hope as the Senate Judiciary Committee moves forward in examining the facts related to the allegations that have been raised, the Judiciary Committee makes sure those facts are evaluated against the standard of independence which is at the core of the Department of Justice and the U.S. Attorney General. If, in fact, this standard has been violated, then it is my view that Attorney General Gonzales should, in fact, resign.

In the meantime, the Senate has a responsibility to ensure that Federal prosecutors are indeed independent of partisan politics, and the bill we passed today is a good first step. But I believe we must do more. Later this week, I will introduce a bill which I believe will take us another important step toward restoring the independence of Federal prosecutors. I am hopeful it will be legislation that will have broad bipartisan support. My bill would simply make it a crime to coerce or to pressure or to attempt to influence a U.S. attorney's decision whether to commence the investigation or prosecution of a person based on that person's race, religion, sex, national origin, political activity, or political beliefs.

The U.S. Attorneys Manual itself, which is given to every U.S. attorney as they come into office, already prohibits any Federal prosecutor from taking action against a person for any of those reasons. My bill would make sure that standard of the United States Attorneys Manual is included in the law of the United States. It would also extend the prohibitions that are set forth in that manual to individuals who try to influence or manipulate Federal prosecutors.

Some may ask, why is this bill necessary? In my view, the bill is necessary because over the past few weeks we have seen evidence that the White House has politicized the appointment and termination of U.S. attorneys. We have also had concerns raised that individuals have tried to inject politics into the administration of justice.

I do not need to rehash the particulars of this controversy right now, but suffice it to say many Senators on both sides of the aisle are concerned that the independence of our Federal prosecutors has, in fact, been threatened. Fixing the process for appointment of interim prosecutors is an important first step, no doubt. But that alone will not prevent individuals—whether from the Department of Justice or anywhere else—from attempting to influence the decisionmaking process of U.S. attorneys in an inappropriate manner. That is what my bill is designed to prevent.

In 1938, almost 70 years ago, the U.S. Supreme Court set forth, in what I believe is seminal language, a standard of conduct that should govern the actions and decisions of U.S. attorneys. In that decision, the U.S. Supreme Court said the following:

> The United States Attorney is the representative not of an ordinary party to a controversy, but of a sovereignty

''but of a sovereignty''—

> whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer.

''guilt shall not escape or innocence suffer.''

> He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.

I believe these words the U.S. Supreme Court said in 1938 are equally as applicable today; that is, we are a nation of laws and we must understand that no person is above or below the law. If we are going to be a nation of laws, we must make sure those individuals in whom we repose the authority to prosecute and to enforce the laws of the United States do so in an appropriate way that meets the standards that were set forth by the U.S. Supreme Court in 1938, and also which meets the standards that are set forth in the manual that governs the conduct of the U.S. attorneys. For many of us who have watched what has happened in Iraq and other places around the world, what we see is a failure of nations to develop a rule of law. That is what sets America apart from many of these other countries that so struggle to create a safe and secure society: they do not have the rule of law which is so important to us in this country. Therefore, I believe the legislation I will be introducing will make sure that the Department of Justice and the U.S. attorneys within the Department of Justice are always in a position to uphold the rule of law for our Nation and make sure that their ability and their decisions are not compromised by any political influence.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will be in recess until 2:15 p.m.

RECESS

There being no objection, the Senate, at 12:45 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

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

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

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. Con. Res. 21.

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 21) setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I ask unanimous consent that during further consideration of the concurrent budget resolution today, the first 3 hours be for debate only, the time equally divided and controlled by the chairman and the ranking minority member of the Budget Committee, and that at the end of that time, the majority leader then be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object, is the majority leader being recognized for purpose of an amendment?

Mr. CONRAD. That is correct, Mr. President.

Mr. GREGG. Mr. President, I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. 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. CONRAD. Mr. President, I repeat the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. CONRAD. Mr. President, let me begin, if I may, by thanking the ranking member, Senator GREGG, for the way in which he has conducted the work of the committee on the minority side and the fairness with which he has conducted it when he was in the majority. I wish to say to him that we will endeavor to approach this in the same way with him. There will not be surprises. We will try to organize this in a way that gives each side a fair opportunity to make their points and to offer their amendments. I wish to again thank Senator GREGG for his courtesy and professionalism throughout both the times when he has been in the majority and the times he has been in the minority.

Mr. President, the budget resolution that has now passed the committee has these key elements:

It restores fiscal responsibility by balancing the budget by 2012, it reduces spending as a share of gross domestic product, it reduces debt as a share of gross domestic product after 2009, and it adopts new disciplines, spending caps, and restores a strong pay-go rule. At the same time, it meets the Nation's priorities by rejecting the President's cuts in key areas and provides increases for children's health care, for education, and for our Nation's veterans.

It also seeks to keep taxes low by protecting middle-class taxpayers with 2 years of alternative minimum tax relief, the old millionaire's tax that has rapidly become a middle-class tax trap. It also includes a deficit-neutral reserve fund for new tax relief and extensions of expiring tax provisions.

Our goal is to be fiscally responsible but to do it in a way that keeps tax rates low and addresses some of the other things we have seen that have been brought before the committee, things that are serious problems. We find abusive tax situations that have grown up around the country. We see the use of tax havens. We also see the tax gap growing geometrically—the difference between what is owed and what is paid—and that is not fair to the vast majority of American taxpayers who pay what they owe.

So we try to keep taxes low, and we include no assumption of a tax increase.

We also try to prepare for the long term by including a comparative effectiveness fund to address rising health care costs, looking at those procedures and those disciplines and those technologies that work to hold down health care costs in one part of the country and to adopt them in other parts of the country. We also adopt a new budget point of order against long-term deficit increases.

The budget resolution that came out of the committee and which we bring to the floor today starts with a $249 billion deficit and reduces it each and every year. In fact, we almost balance in 2011 under this proposal. We do achieve balance in 2012 with $132 billion to the plus side. One might say this is a surplus. I always hesitate to use that term because the only reason it is in surplus is because of Social Security. Nonetheless, in terms of the way deficits are calculated and reported by the press, there is a $132 billion positive balance in 2012.

One of the most important things we have to stop is the growth of the debt. All the economists tell us the most important thing we have to do is to reverse the debt growing faster than the size of the economy. I am proud to report this budget does so. This shows

the debt, gross debt of the United States, as a share of gross domestic product. You can see that after 2009, each and every year we are bringing down the debt in relationship to the size of our economy. That is, by all accounts, the single most important thing we can do in terms of returning fiscal responsibility.

In terms of a spending comparison, the green line is the spending in the budget resolution, the red line is the President's spending. You can see there is a very close fit. We do spend more money than is in the President's budget, but when you put it on a comparison basis and you look at 5 years in which the United States will be spending just over $15 trillion, the difference between our spending and the President's is almost indecipherable.

As a share of gross domestic product, our spending is going down. In 2008, we will be at 20.5 percent of GDP. Each and every year, spending as a share of GDP will be going down, so that by 2012 we have spending at 18.8 percent of gross domestic product.

The budget resolution has lower spending as a percentage of gross domestic product than the average during the period of Republican control. From 2003 to 2007, the average spending in Republican budget resolutions was 20.1 percent. Under our 5-year budget plan, the average will be 19.7 percent, fourtenths of 1 percentage point below what the Republican spending was in the years in which they controlled.

On the question of defense spending and war spending, we have matched the President dollar for dollar. The President has total defense spending, and we are spending $2.9 trillion during this period. We match that amount. We have the same amount for defense and the same amount for the war.

But there are other areas in which we do better. Perhaps the signature proposal of this budget is to fully fund children's health care, to say to every child in America: You are valued, and we want you to have health insurance. We believe this is substantively right, that this is a good investment. Our children are the least expensive to cover, and you have the biggest payoff because you have an entire lifetime of return if you are able to safeguard a child's health. So we have made a major commitment—up to $50 billion over the 5 years—to provide the opportunity to provide America's children with health coverage. The President only had $2 billion for this purpose. He couldn't even cover those who have existing coverage. If there is one thing that unites our caucus, it is a vision of being able to extend health care coverage to every child in America. Our budget resolution will help make that prospect a reality—if it is adopted.

This is from the Akron Beacon Journal in Ohio. Earlier this month, they wrote:

> The State Child Health Insurance Program arguably is the best thing going for children in families with annual incomes too high to be eligible for Medicaid but not high enough for them to afford private health insurance . . . Statehouses across the country consider the SCHIP a winner. . . . At issue is President Bush's budget plan changing aspects of the funding and direction of the program, forcing States to scale back or scratch up more funds to keep their programs at current levels. Why scramble something that is working well?

We have asked that question. Why is the President turning his back, in his budget, on millions of American children? Why is the President saying we won't even provide coverage to those who already have it? Why isn't coverage being extended to the millions of young people in this country who have no health care coverage at all?

Another major area of priority in this budget is for education. The President provides in his budget, for just the fiscal year 2008—and I wish to emphasize that the previous numbers I have talked about were 5-year numbers. I am now talking about just the year 2008. The President's budget for education is $56.2 billion. We are proposing $62.3 billion. Why? Because we believe education is an absolute priority. Education is our future. Education is what allows us to maintain a competitive edge in this world. Education is what gives children in America the chance to make the most of their God-given talent.

This is a year in which we reauthorize the Higher Education Act. This is a year in which we reauthorize No Child Left Behind. This is the year in which we have to put the funds up to keep the promises that have been previously made and, unfortunately, all too often were broken. Our funding level meets those needs in education and gives an opportunity to improve things such as the Perkins loan program, things such as title I, No Child Left Behind, and the other education programs that are critical to America's role and position in the world.

A third area of priority after children's health care and education is our Nation's veterans. We have all read the stories about what has gone on at Walter Reed. I do not think there is a Member on either side of the aisle who was not outraged to see what was happening to veterans. I think we all know there are problems in our VA system as well. We have increased the President's proposal for veterans health care from the $39.6 billion he provided to $43.1 billion.

I am especially proud of this because we have matched the independent budget in every area but one. In fact, we have either matched the independent budget, which is the budget put together by our veterans organizations themselves—this is what they have told us is necessary, and we have either matched them or exceeded them in every category but one. The only category in which we didn't match or exceed them was in an area in which the Veterans' Committee tells us they couldn't spend the money in 2008 if we gave it to them.

In medical care, the independent budget called for $36.3 billion. We have provided $36.9 billion. I might add, that is at the recommendation of the Veterans' Committee.

The independent budget called for $1.3 billion for information technology. We have provided $1.6 billion—again at the recommendation of the Veterans' Committee—because they have analyzed the information technology systems in the VA and determined there would be a significant advantage by this additional expenditure. As you know, the VA system is now developing a world-class system, one that provides information in real time on each patient's condition. This makes a profound difference in the medical treatment to our Nation's veterans.

On medical and prosthetic research, the independent budget called for $480 million. We have provided $481 million.

On operating expenses, the independent budget called for $2.23 billion. We have matched that amount.

On construction—this is the only area in which we did not match the independent budget. They called for $2.14 billion. We provided $960 million, the amount the Veterans' Committee tells us could actually be efficiently spent this year. If we were to provide them more money, the Veterans' Committee tells us that money could not be effectively or efficiently deployed. I don't think any of us want to waste money or to spend money that cannot be efficiently or effectively employed.

Other priorities in the budget resolution include restoring the cuts to the COPS Program. The President proposed cutting the COPS Program, which puts police on the street, by 94 percent. What sense does it make to eliminate police on the street at a time when crime is rising, at a time when we face a continuing terrorist threat? It makes no sense to this Senator, and I don't think it makes sense to most Senators. I held a hearing on this in Fargo, ND. I had the police chief there and I had the sheriff of Cass County there. They told me how important this has been to my State. Over 250 police officers have been added to the streets of North Dakota because of the COPS Program. We should not be cutting it, as the President proposed, by 94 percent. So we have restored that cut.

On heating assistance, the President cuts the Low-Income Home Energy Assistance Program by almost 20 percent. We have restored that cut.

Community Development, CDBG—I think we all know how important community development block grant funds are to this Nation's mayors. If there is one thing we have heard loud and clear, it is that the President's cut there makes no sense.

Finally, with respect to transportation and Amtrak, we have funded this at $1.78 billion that the committee requested. The President had a deep cut there, threatening transportation service not only in the Northeast corridor but all across the country, including my own State.

With respect to revenues in the resolution, I wanted to emphasize the following points:

The budget resolution protects middle-class taxpayers with 2 years of alternative minimum tax relief, and that is fully offset, it is paid for. What is the alternative minimum tax? Remember, years ago they found out that some very wealthy people were paying no taxes. It was a handful of people—as I recall, in the hundreds—very-high-income people who were paying no taxes. So they put in place something called the alternative minimum tax. It is an alternative tax structure to try to make certain that very wealthy individuals, high-income individuals, pay something in terms of taxes.

Unfortunately, it was not appropriately adjusted for inflation. The result is more and more people are being caught up in it. Last year, some 3.5 million people were affected by the alternative minimum tax. If we fail to act, there will be over 20 million people caught up in the alternative minimum tax this year. We have prevented that from occurring, and we have prevented it from occurring again the next year.

We also provide a deficit-neutral reserve fund for tax relief, including extension of expiring provisions, a deficit-neutral reserve fund that says you can extend current tax cuts if you pay for them.

Next, we provide for new measures to close the tax gap, shut tax shelters, and address the burgeoning growth of offshore tax havens. I will have more to say about those in just a minute.

We also called for fundamental tax simplification and reform. We had tax reform a number of years ago. Since that time, we just keep adding complexity, we just keep adding regulations, and we just keep adding new and more provisions that make the Tax Code more and more complex.

I am a former tax commissioner. I used to be the elected tax commissioner of my own State. I couldn't do my own taxes today. I happen to have a very good accounting firm back in my hometown of Bismarck, ND, prepare my taxes. Unfortunately, I think that is true of most of us. That should not be. Certainly, the vast majority of people should be able to do their own taxes. It should be far more simple than we have allowed it to become, so we think it is important to call for tax simplification reform.

We also have no assumption—I wish to emphasize this—no assumption of a tax increase. We do not believe a tax increase is necessary to achieve the revenue levels we have outlined in this resolution.

Let me show why we believe that is the case. The red line is the President's revenue line. The green line is our revenue line. There is a 3-percent difference. In other words, on the same scoring basis, same projections by the Congressional Budget Office, who are the ones who evaluate these things, our revenue line would produce 3 percent more revenue over the 5 years than the President's plan. Our plan would produce some $15 trillion of revenue over the 5 years; the President's, 3 percent less.

Seeing it another way, here is what the President called for in his initial budget. In his beneficial budget proposal, the President said his plan would raise $14.8 trillion over the 5 years. Our plan, as I have indicated, raises $15 trillion. That is a difference of 1.2 percent. So our budget contains revenue over and above what the President proposed of 1.2 percent.

I know my colleague will jump up and say: But that is OMB scoring, the Office of Management and Budget scoring for the President, and you are using CBO scoring. That is true. But what is also true is the President controls the Office of Management and Budget. That is his office. It is his office that said he was going to raise $14.8 trillion over the 5 years. I am constrained to use Congressional Budget Office scoring. The Congressional Budget Office said our proposal would raise $15 trillion. So that is a difference of 1.2 percent. We think that can be achieved by going after the tax gap, by going after these tax havens, by going after these egregious tax abuses I will get into in a minute.

AMT relief. I indicated that over 3 million people were affected in 2006. In 2007, there will be over 20 million—in fact, it is 23.2 million.

In 2008 it would be 25.7 million if we failed to act. This budget resolution will prevent that explosion of people being subject to the alternative minimum tax, the middle-class tax trap.

This is what the head of the General Accounting Office said, General Walker said in August of 2006: If we are looking into the future and face the facts, we will see that our problem is not just on the spending side and entitlements, it is also on the revenue side.

General Walker is telling the truth. Here is what happens if we extend all of the President's tax cuts without paying for them. If we extend all of the President's tax cuts without paying for them, debt as a share of the economy will reach over 200 percent. Debt as measured by the gross domestic product of the economy will reach over 200 percent in coming years.

The red part of this bar is the additional debt if tax cuts are extended without offsets, without paying for them. The green part of this bar is what happens to the debt if tax cuts expire or are offset, are paid for. That is an important fact to keep in mind. We simply cannot extend all of the tax cuts without paying for them, without pushing this country right over the cliff into massive debt.

I want to talk a minute about the tax gap because I have indicated we believe we could get this additional revenue—remember our revenue is 1.2 percent more than what the President said his budget would raise. How do we get it? Well, one of the first places we ought to look is the tax gap. The tax gap is the difference between what is owed and what is paid.

The Internal Revenue Service tells us for 2001 the tax gap was $345 billion for that 1 year alone. That is based on an estimate of the tax gap back in 2001. Surely the tax gap has grown significantly since that time.

I believe this was a conservative estimate to begin with in terms of what the tax gap was in 2001, $345 billion for that year alone. Again, this is the amount of money that is owed under the current Tax Code but not paid. If we could eliminate this tax gap, we would eliminate the budget deficit. The budget deficit would be gone.

All of us know we cannot collect it all. All of us know we cannot collect it all. But over this 5-year period, the tax gap is probably in the range of $2 to $2½ trillion. If we just collected 15 percent of it—15 percent—that would be over $300 billion. That alone would come close to meeting the revenue needs under our budget resolution.

But we don't just look to the tax gap, even though that is important, and even though the National Taxpayer Advocate finds the tax gap is adding more than $2,000 to the average household's tax bill in this country.

This is what the Taxpayer Advocate said this year: Compliant taxpayers pay a great deal of money each year to subsidize noncompliance by others. Each household was effectively assessed an average tax of about $2,680 to subsidize noncompliance in 2001.

That is not a burden we should expect our Nation's taxpayers to bear. What an outrage. What an outrage. The vast majority of us who pay what we owe are getting stuck with the bill from those who do not. Those individuals, those corporations that do not pay what they legitimately owe under the current Tax Code, an amount back in 2001 that was $345 billion in 1 year alone, that has now grown substantially—I am certain—since then.

Some are saying, well, we cannot collect most of it. Why not? I used to be a tax commissioner. We went after it aggressively, and we collected tens of millions of dollars on that tax gap in the little State of North Dakota. We can do it. If we could do it there, we certainly can do it here in the Nation's Capital. If we can go after big corporations in North Dakota, from the capital in Bismark, ND, with the power of the Federal Government, we can go after these companies and these individuals who are abusing and avoiding what they legitimately owe. I don't buy that we can't. I don't buy it.

It is not just the tax gap, the difference between what is owed and what is paid, it is also the explosion of tax havens. This is a building in the Cayman Islands, a five-story building that is the home to 12,748 companies. Let me repeat that. This modest building in the Cayman Islands, a five-story building, is the legal home of 12,748 companies. They say they are doing

business out of that building. Really? They are doing business out of that building?

They are not doing business out of that building. They are doing monkey business out of that building. What they are doing is avoiding taxes in the United States and other jurisdictions. That is what they are doing.

When I was tax commissioner, I went after a company doing business in North Dakota. I found them engaged in one of these tax dodges in one of those tax haven countries. They wound up sending us big chunks of money because they were hiding their profits in these tax haven countries. We should go after them.

We went on the Internet to find out what we could find there. We punched in ''offshore tax planning.'' Offshore tax planning, that is the euphemism used by these tax haven countries. You know how many hits you will get on the Internet? You will get 1,260,000 hits on the Internet, 1,260,000. What do they talk about? They talk about offshore tax planning, basic techniques of international tax planning.

International tax planning. What they are really talking about, what you find when you go to the individual Web pages—because tax planning, that is the euphemism. What they are really engaged in is tax avoidance, tax evasion. That is what is really going on.

Here is my favorite: Live tax free and worldwide on a luxury yacht. Moving offshore and living tax free just got easier. You bet it got easier. You transfer your money to one of these offshore tax haven accounts, and they say very clearly: Do not worry about paying taxes any time in the future. We will shield you from it because we do not have taxes that apply to earnings in these offshore accounts, and we will not report back to your home country that you have stuck your money here and are earning big chunks of change on it and owe taxes on it. We will help you shield that from your Government.

It says in one of these: Your money belongs to you, and that means it belongs offshore. That means it belongs offshore because you put it offshore, and it will be tax free.

That is not fair to all of the rest of us who pay the taxes we owe. This is from USA Today, a story from September of last year: ''Offshore Tax Havens Aggressively Targeting U.S. Taxpayers.''

This is the quote from the UofMoney.com:

''I am going to show you how to protect your money and all you own so nobody, not even the Government, can get at it,'' says University of Money dot-com.

Well it does not end there. This is, again, from USA Today, that same story, ''Offshore Tax Havens Aggressively Targeting U.S. Taxpayers.''

''Once your assets have been transferred to the offshore entity they are safe,'' says website Carib-offshore.com. ''You cannot be taxed on them.''

Now, what could be more clear? This is a giant tax dodge. It is growing. It is a cancer on the vast majority of people and companies that pay what they owe.

How big is this? Well, this is from the State Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations. That is a committee of ours. That is a committee of the Congress of the United States from February of this year: Experts have estimated that the total loss to the Treasury from offshore tax evasion alone—this is not the tax gap, this is tax evasion—approaches $100 billion a year, including $40 to $70 billion from individuals, another $30 billion from corporations engaging in offshore tax evasion. Abusive tax shelters add tens of billions of dollars more.

If we got a chunk of this money and a chunk of the tax gap money, the two of those, if we got 15 percent of those, we would meet the revenue requirement in the budget resolution before the body.

Now, some will say, well, that is impossible to do. I do not believe it. I do not believe that is impossible to do. I was a tax commissioner. I know what can be done if we put the effort into it, if we put the resources into it. We can make enormous progress. Will we ever get it all? No. Obviously, no. We are not going to get it all. But can we get some fraction of it? Goodness knows, this country, if it puts its mind to it, can make significant progress.

One hundred billion dollars a year in these offshore tax havens—this is according to the Senate Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations. They say tens of billions more in abusive tax shelters. What kind of tax shelters are they talking about?

Here is the kind of tax shelter they are talking about. Here is the Dortmund, Germany, subway system. What has that got to do with U.S. taxes? Well, as it turns out, it has got a lot to do with U.S. taxes because wealthy U.S. investors bought the Dortmund subway system from Dortmund, Germany. They went out and bought it. You know what they did? They depreciated it on their books for U.S. tax purposes to lower their U.S. taxes, then they leased it back to Dortmund, Germany, to continue to run their own subway system.

Now, that is a ripoff, I think. What are we doing? We are allowing people to depreciate and reduce their U.S. taxes by buying the Dortmund subway system over in Germany, a system that was paid for by German taxpayers, and then to lease it back to Dortmund, Germany, to run. Are we really going to let this kind of thing go on?

It does not stop there. Here is the city hall in Gelsenkirchen. Wealthy investors in the United States bought that, too, depreciated that on their books in the United States for tax purposes, then leased it back to Gelsenkirchen for their city hall.

Shame on us for allowing this kind of thing to go on. It does not end here. Here is a European sewer system. This is my favorite rate of all. European sewer system, wealthy investors in the United States bought it and depreciated that on their books to reduce their U.S. taxes and leased the sewer system back to the European city that built it in the first place. Come on. Come on. How are we allowing this to go on?

And we cannot get 1 percent more revenue than the President does in his budget? I don't believe it. Close down this tax gap, tax havens, these offshore tax havens. Go after these kinds of scams.

It does not end there. Closing loopholes and abusive tax shelters are not tax increases. Some are going to come out here and say, well, you have got more revenue, it is a tax increase. Is it a tax increase to close these loopholes, to close these abusive tax shelters? I do not think so. I am not alone in that. The former chairman, Republican chairman of the Senate Finance Committee, said this last year: Just in the period of time since 2001, our committee has raised $200 billion in revenues by shutting down tax shelters, by closing inversions and other abusive tax schemes.

Now, in the year 2004 alone, the Finance Committee fully offset a $137 billion tax bill at no expense to the American taxpayers—$137 billion in 1 year.

Hallelujah. If we do that each of the 5 years of our budget, we would more than meet the revenue called for with no tax increase.

The budget resolution also addresses some of our long-term fiscal challenges. We provide $15 billion in Medicare savings. We have program integrity initiatives to crack down on waste, fraud, and abuse. I will talk more about that in a minute.

We have new mandatory spending and tax cuts that must be paid for under pay-go. We have a long-term deficit increase point of order. We save Social Security first with an amendment that was adopted in committee.

We have a health information technology reserve fund the RAND Corporation says could save hundreds of billions of dollars a year if implemented, and we have a comparative effectiveness reserve fund to look at those changes we could make in health care to dramatically improve the cost effectiveness of our system.

We all know what is driving our budget challenges. Right at the heart of it is health care. Rising health care costs are driving Medicare cost growth. If we look to the years ahead, the red part of this chart is what health costs are doing to raise the cost of Medicare. The green is the effect of demographics. The green is the change of the numbers of people in the baby boom generation. The red is the increase in projected health cost. That is where we have to focus like a laser. That is what this budget resolution does. We have this comparative effectiveness reserve fund that will jumpstart an effort to bring down health

care costs. It provides a new initiative to provide research on effectiveness of different treatments, medical devices, and of drugs so we can identify those things that work where we make an investment and it is paying off.

The Secretary of Health and Human Services, Secretary Leavitt, said this in February of this year in testimony he provided:

> It's evident that there is substantial fraud going on in the Medicare program and we need to be able to have the resources to root it out, to prosecute it, to make certain that it stops. . . . [I]t's a desperate need, we have to have more resources for enforcement.

This budget resolution gives the Secretary the resources he has asked for to go after fraud in Medicare and Medicaid. This chart shows what he is talking about. Because this is part of an ongoing investigation, I can't reveal on the Senate floor where this site is. It is an office building. All these areas blotted out in white are businesses in a building with front operations, scam operations. They are operations that are billing Medicare on average about $1.5 million a year, but they are not providing any services. This is the kind of thing that is going on all across the country. Unfortunately, there are certain parts of the country where it is more prevalent.

The Secretary told the committee there are hundreds of these operations in one State alone, billing Medicare typically $1.5 million a year. He would go to the doors of each of these operations in the middle of a workday, and nothing is going on. Nobody is there. Yet they are billing, billing, billing, billing Medicare for fraudulent devices. This is the kind of scam we have to shut down.

In this budget resolution, we provide important budget enforcement tools as well: discretionary caps for 2007 and 2008; we restore a strong pay-go rule. Pay-go simply says if you want new tax cuts, you have to pay for them. If you want new mandatory spending, you have to pay for it. We also have a point of order against long-term deficit increases, and we allow reconciliation for deficit reduction only. Reconciliation is a big word, a fancy word for special procedures around here that go outside the normal way business is done. It is a fast-track procedure. The only reason it was provided for is to reduce deficits. In recent years it has been hijacked and used to increase deficits. That stands the whole process on its head. We now return reconciliation for the purpose it was intended, to be used to reduce deficits only.

That is a brief summation. Maybe not so brief. I took my colleague's breath away with that ''brief'' reference. That is a relatively brief summation of what is in this budget resolution.

I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from New Hampshire.

Mr. GREGG. Madam President, I appreciate the Senator's brief explanation of his budget. I look forward to the longer version. We always appreciate his charts, which are well done. I congratulate staff.

Let me start by thanking him and his staff for their courtesy. It has been professional, cordial, and very enjoyable to work with him and his staff on trying to pull this together in a way that is fair, honest, and everybody gets their 2 cents in. Obviously, there are philosophical differences here, but I greatly admire the chairman's commitment to governing fairly and making sure that everybody has a good chance of getting their points across. I admire his ability and his effectiveness as chairman of the committee. I enjoy working with him.

There is a lot to talk about. It is hard to know where to start. I may not be as brief as my colleague, in fact, because there is so much to talk about, although I usually try to be terse and concise.

Let's begin with where we are which is we are now functioning under economic policies put in place by President Bush and the Republican Congress that have produced extraordinary results for the American people. We came out of the 20th century, unfortunately, with the biggest bubble in the history of the world bursting, the Internet bubble of the late 1990s, followed by the attack of 9/11 which threw our economy into a tailspin. Those two events combined should have thrown us into a severe recession or depression. We did have a recession, but it was nowhere nearly as severe as it might have been. Obviously, we didn't have a depression.

The reason primarily was because in the early 2000 period, President Bush, with the support of this Republican Congress, put in place policies which created an atmosphere for economic recovery even in the face of those two devastating events, the bursting of the largest bubble in our history, the Internet bubble—bigger than the tulip bubble, the South Seas bubble—followed, of course, by 9/11, which was an extraordinarily devastating event for all of us. As a result of the policies put in place, the economy has now expanded for 21 straight months. Employment is up 7.6 million jobs. That is people with real jobs, which, of course, is the essence of economic recovery and quality of life. A good job is the essence of a good quality of life. The unemployment rate is lower than it has historically been in most recoveries, which is positive news.

The economic growth has propelled dramatic increases in revenues. I will return to this in more depth in a few minutes.

We have seen in the last 3 years the most significant increase in Federal revenues in the history of the country over a 3-year period. We now have revenues above their historic norm. Historically, they have been about 18.2 percent of gross national product. Now they are about 18.5 percent. During this recovery, real wages have jumped as compared with President Clinton's period, which was a good time economically, and we have had real wage growth that has been more significant than during that period.

To get back to the revenue issue, as a result of the tax cuts put in place by this administration and the Congress, we have seen a dramatic increase in revenues. That is because we have come to a point in our society economically where we put in place a tax law that is fair. We are saying to the American people: Go out and be an entrepreneur. Take a risk, be a marketplace-oriented person, create jobs. If you are willing to do that, we are going to tax you at a fair return on your investment. We have, as a result, dramatically increased revenues so that they are above the historic norm. We have seen the single most significant jump in revenues in our history over the last 3 years, and this chart shows that. So we have as a government actually seen a huge inflow of revenues.

What is the effect of that? The effect is the deficit has dropped dramatically. It was estimated to be about $500 billion about a year and a half, 2 years ago. It is now going to be below $250 billion, and it is headed down. In fact, over the next 5 years, using a CBO baseline, the deficit will continue to go down until we are into surplus and, as a practical matter, under the CBO baseline we reach surplus in late 2011, early 2012. I have said on a number of occasions, it is even humpty-dumpty in the next 5 years to reach surplus. Given what is happening with the revenues of the Federal Government, we are simply in a good time for revenues. Why? Because we are in a good time economically from the standpoint of an expanding economy, creation of jobs and, as a result, the creation of revenue.

It is important to remember that if you have a tax law that says to the American people, go out and invest and take a risk, they will do it. That is the exciting part about our economy. Americans are entrepreneurial by nature. They love to take risks, if they know they can get a return on that risk, because that is the nature of the American people. They will create jobs as a result. When we put in place a dividends rate and a capital gains rate which essentially said: If you want to expand, you want to take a risk, we are going to give you a chance to do it, and you get a reasonable return on your dollars, they have done it. Human nature has produced these huge revenue explosions.

It is also human nature to say to someone: We are going to tax you at such a rate that you are not going to have much incentive to go out and invest because the Government is going to take too much money out of your pocket, so why should you go out and put your sweat equity into trying to build a little business, a restaurant or maybe a small software company or something such as that? Why should

you do that if the Government is going to take so much of your income that it doesn't make any sense? So you don't make that type of an adjustment in your lifestyle.

We have created an economy and a tax atmosphere where people know they are going to be taxed fairly—not undertaxed, taxed fairly. As a result, we have seen huge increases in revenue. In fact, because we have created such a fair tax climate, today the top 20 percent of American income tax payers pay a higher percentage of American taxes to the Federal Government than they did during the Clinton years.

Let me explain this another way. During the Clinton years, if you were in the top 20 percent of the income brackets, you paid less in taxes as a percent of the total Federal burden than you do today, if you are in that top 20 percent. So basically high-income people are today paying 85 percent in Federal income tax. At the same time the bottom 40 percent of Americans who have income tax obligations actually don't pay a lot of income tax. They actually get money back through something called the earned income tax credit. They are getting back twice as much, almost twice as much under the system today as they got back under the Clinton period.

So we have the highest income people—those top 20 percent of the American people paying income taxes—paying 85 percent. We have the lowest income people—the bottom 40 percent—getting about twice as much back as they did under the Clinton years.

What does that mean? We actually have—under this new tax law that was put in place which is generating all this revenue, 21 months of economic expansion, 7.5 million jobs, and all sorts of revenue for the Federal Government—we actually have a more progressive tax system than during the Clinton years. In other words, high-income people are paying more, low-income people are paying less and getting more back. That is progressivity, and that is the way it ought to be.

So in light of this situation, where we have seen a dramatic expansion in the economy, a dramatic expansion in Federal revenues, a big increase in jobs for Americans, and a situation where we have a more progressive tax system, what does the Democratic budget suggest?

Well, it suggests putting in place a set of policies which goes in exactly the opposite direction of the policies that got us to this point. The Democratic budget, as proposed, will increase taxes, or revenues, by approximately $916 billion, it will increase nondefense discretionary spending by approximately $140 billion, it will increase the debt by $2.2 trillion, and it does nothing in the area of mandatory savings. I will talk about all four of these areas individually.

I also will mention some of the things it leaves out. It has left out long-term entitlement reform. It has left out long-term AMT relief. Funding for the ongoing costs of the war beyond 2009 is left out. It has left out fixing the physicians payment and unexpected emergency funding, and its spending and taxes in 24 different reserve funds. We will get into more specifics on this issue.

On the spending side of the ledger, this budget increases nondefense discretionary spending by $146 billion, approximately—$18 billion next year. Remember, that is not in a vacuum. That is on top of the budget the President sent up here that would increase spending by almost $50 billion next year. So you are seeing a dramatic expansion in spending.

At the same time, there is virtually no reduction in the amount of spending which is occurring in nondefense entitlement spending, in entitlement spending, or in nondefense discretionary spending. The chairman of the committee said: We need to be tough on spending. But in his budget, there are no spending cuts—none. He said we would need more revenues, so in his budget he put in $900 billion more of revenue.

What you have is a budget that dramatically expands revenue but does not do anything to constrain spending. As a result, what you are going to get is a very significant increase in the debt of the Federal Government. It is going to be up by $2.2 trillion after this Democratic budget has gone forward.

The wall of debt, which we have seen many times on this floor from the chairman of the Budget Committee, is going to grow and get higher and be more difficult for our children to bear and get over.

In addition, the budget, as proposed by the Democratic membership, will significantly use Social Security funds for the operation of the Government. Over $1 trillion of Social Security funds will be used to operate the Federal Government. Now, that is not unusual. I admit to that. Historically, Social Security funds have been used to operate the Federal Government. But in the past we have heard from the other side of the aisle it is not right to do that. Well, if it was not right for us to do that when we were in the majority, why is it right for the Democratic side of the aisle to do that when they are in the majority, which is what they do.

In addition to building the wall of debt, they are also building the wall of spending. There are all sorts of expansions of programs in this budget. In fact, as I listened to the chairman's opening remarks, what I heard most—maybe because my ears are attuned to it; but I also think the majority of the time was spent on two things—one was new spending programs. He listed them—one after another after another after another. We have to spend more money here, more money on agriculture, more money on SCHIP, more money on LIHEAP, more money on CDBG, more money on transportation, and more money on the COPS Program.

My goodness gracious, the COPS Program was put forward by President Clinton back in, I think, 1995. He said it was going to be a 3-year program. At the end of 3 years it was going to go away, if we funded 100,000 cops on the street. That was the program. Well, we funded 100,000 cops. Then we funded 10,000 more. So we ended up funding 110,000 cops.

Three years went by and the program did not go away. It is still there. It is like every other Federal program. They do not go away. They stay on, as has this one, even though that program was specifically designed to go away. But we see it as a high priority for new spending in this budget. So it is spending upon spending upon spending—$146 billion in new spending in nondefense discretionary spending. That is a big number. It compounds. It is not as though it is not a big number to begin with. But when you get out past 5 years, that number becomes the base that everything grows off of, and it gets bigger and bigger and bigger. It is not as though it is a one-time event.

The COPS Program is a good example. It was supposed to go away. It stayed around. It is compounding—got to add to it, got to add to it, got to add to it. In the end, who pays? Well, it goes back to that wall of debt. The $2.2 trillion of new debt that is being put into this system by this bill goes to our children. That is a bill directly to our children. We need to address the fact that this budget, as proposed by our colleagues on the other side of the aisle, is going to do nothing to give our children the opportunity to have a decent lifestyle, to have the lifestyle our generation has had. In fact, it is going to aggravate their ability to afford the Government they are going to be handed because it is going to give them all this new spending, and then it is going to hit them with mandatory spending.

We know if we do not address the mandatory spending accounts in this Government, we are going to bankrupt this country. We are going to send this country into a fiscal spiral, and our children are essentially going to be handed a country which they cannot afford. We know that. Why do we know that? Well, because the chairman has been good enough and, appropriately, has held probably 10 or 15 hearings on this specific point. Every major witness we have had—all the leaders, from the Chairman of the Fed, to the Comptroller General—all of the major witnesses have said the same thing: We are headed toward a fiscal meltdown as a nation because of a demographic tidal wave that is headed toward us. The baby boom generation is going to retire. It is going to double the number of recipients who will get Medicare, Medicaid, and Social Security. As a result, our children are going to be overwhelmed.

This chart shows it so appropriately, the three programs: Medicare, Social

Security, and Medicaid. The spending on those programs is going to exceed what has been spent by the Federal Government historically, which is about 20 percent of gross national product. That is shown by the black line on the chart. It is going to exceed that number by about the year 2025, 2028. Then, it keeps going up. So as a very practical matter, in about a decade and a half from now, it is going to be impossible for the Federal Government to function because three programs will be absorbing all the money the Federal Government traditionally spends. The practical effect of that will be our children will basically have to be taxed into obscurity in order to support this. That, unfortunately, is what is going to happen unless we address this issue.

The total unfunded liability of our Federal Government is about $67 trillion over the next 75 years. Mr. President, $67 trillion—try to put that number into concept. I do not know what $1 trillion is. Try to think of what that means: $67 trillion.

Well, to try to put it into some context—it is still unconscionable; it is such a huge number—if you take all the taxes paid in the United States since the beginning of our Government, we have paid in about $42 trillion. So the unfunded liability—most of which is due to Medicare, some of which is due to Social Security—exceeds the total taxes paid to the Federal Government since the beginning of our country.

To put it another way: If you take all of the net worth of America—everybody's car, everybody's house, all your stocks, all your businesses—and roll it into a ball, that adds up to about $56 trillion. We actually have on the books today a liability that we do not know how we are going to pay for, which exceeds—exceeds—the total worth of America. Yet this budget, which we are presented today, does nothing about that. Even though we had hearing after hearing to talk about the need to address entitlements and the spending on entitlements, it does nothing about it.

It is not as though nothing can be done. We will hear from the other side of the aisle, well, we need to do a global settlement—and I have joined with the Senator from North Dakota to try to accomplish that—that we cannot do anything until we do a global settlement. That is a good idea, and that is the way it should be done, but we have to get started, folks. We have to get started. This budget was the opportunity to start.

In fact, the President sent us up an idea—two ideas, basically, which would have accomplished very significant savings in the entitlement area. His proposals would have saved $8 trillion of the $24 trillion now unfunded in the Medicare fund or essentially 25 percent of the Medicare fund. Twenty-five to thirty percent of the Medicare fund insolvency would have been addressed. How did he do it? He did not affect beneficiaries with his proposals. They were very reasonable proposals.

Essentially, the way he did it was to set up two proposals. One would have calculated correctly the reimbursement cost to provider groups, not counting doctors. The other would have required that very high-income seniors, people making over $160,000 on their joint returns, would have to pay a higher percentage of the cost of their Part D premium and their Part B premium. So 95 percent of the seniors would not have been affected at all by the proposals he sent up here. Remember, these proposals would have reduced the insolvency of the Medicare trust fund by $8 trillion or by about 30 percent.

This type of proposal should have been taken up. It should have been agreed to. There should not be any debate about it. Why, for example, should a person—a mother, maybe a single mother working at a restaurant, who has to pay taxes—why should she be supporting the premium which is being used to support the drug benefit for a retired senior who has an income of over $160,000 filing a joint return?

Let's take, for example, a retired Senator. Why should somebody who is working on a production line or in a restaurant or in a gas station—why should their general taxes have to be used to support a retired Senator's Part D premium for drugs? Because the retired Senator is probably going to be making more than $160,000 jointly or $80,000 individually. It makes no sense.

Just by effecting this one change, you could have dramatically reduced the liability of the trust fund and made our Government more affordable to our children so our children would be able to send their kids to school and not have this huge tax burden. This is another example of that.

But, essentially, this budget, as presented, totally ignores the entitlement storm that is coming—the Medicare storm, the Social Security storm, and the Medicaid storm. It is a failure in policy and a failure in leadership. It is especially unfortunate because when you put it in the context of the fact that this budget significantly increases taxes, taking—we will get into that in a few minutes—the tax burden of the American people from 18.5 percent of gross national product up to 20 percent of gross national product, instead of using those revenues for the purposes of maybe trying to resolve this long-term crisis which is so significant that it truly will cause an economic meltdown—instead of doing that, these tax increases are frittered away. They are frittered away. They are spent. They are used to adjust this program or that program, whereas, they should have been used, if they were going to be done at all—which they should not be at this time—to at least address the liability of the Medicare trust fund. But they didn't. It didn't occur.

So when the Democratic chairman says: ''I have said I am prepared to get savings out of long-term entitlement programs,'' I wish he had done that. Instead of that happening in this budget, there is absolutely no savings that would improve the trust fund situation. There is a $15 billion savings, but that is used to pay for a $50 billion expansion of the SCHIP program, so it is actually a net loser to the tune of $35 billion.

The practical implications of this budget—the practical situation, to clarify, because it is fairly complex, is that by increasing spending by $146 billion and then increasing revenues by $900 billion and then increasing the debt by $2.2 trillion and doing nothing on the entitlement side of the ledger, this budget essentially creates almost what you could call a perfect storm of tax and spend. It is overwhelming, the practical implications of where this is going to go, because of the four priorities as they are set out and the way they have been dealt with. Missed opportunities on the entitlement side, dramatic expansion of revenues on the revenue side, nondefense discretionary spending increases to $146 billion. On the revenue side—on the big red chart—this bill essentially says the revenues increase is going to be about $900 billion.

To put this fairly, if you were to look at the President's budget and compare it to this, the President's budget would be about $400 billion or $450 billion. That basically involves the AMT. So what essentially is being proposed is a $450 billion to $500 billion increase in taxes over what the President might have suggested, or did suggest, which is a half trillion dollars.

The chairman likes to call this 3 percent. We are just 3 percent above the President. He has these two graphs that go together. You remember when you were in junior high school and you did graphs. If you compress the numbers enough, you make everything go together. It is all mushed together. That is what he has done.

Three percent is real money, folks. Even though the graphs go like this, they are all crushed together on his chart. Three percent is a half trillion dollars. A half trillion dollars, that is a lot of money in new taxes. In fact, that represents the single largest tax increase in the history of the country. This budget reflects that. We don't know where it is coming from because we have this representation from the majority leader that it is not going to come from increasing the rates. Well, that is hard to understand because he has claimed he is going to get it from the tax gap, and then he has claimed he is going to get it from closing loopholes.

We had testimony before the committee from the head of the IRS. The Commissioner of the IRS said he might get another $30 billion to $40 billion at most over 5 years—and I am giving him the benefit of the doubt—out of the tax gap. He was close to $20 billion, actually. Regarding closing the loopholes,

we have had a lot of people around here chasing loopholes for a long time. Everybody has loopholes they chase all around this place. It is sort of like one of those games when you take your kids to Chuck E. Cheese's and they have those things with the big heads that pop up and you hit them with the club. Everybody is chasing loopholes all over this place, but they don't appear to get them very often. When they do get them, they don't generate a half trillion dollars. It might generate $5 billion or $4 billion. That is a lot of money, but it is not a half trillion dollars.

A half trillion dollars is real money. Where do you get it? You raise rates. This budget is a stocking horse for rate increases. There is no question about it. In fact, all you have to do is read the fine print. In the fine print, there are four—not one, not two, not three, but four new—because I count their pay-go proposal as new—four new—and tax-go proposal—four new points of order against tax rates increasing over their present—tax rates being allowed to stay at their present rate.

Let me restate that because I obviously mixed up the sentence. There are four new points of order against the ability to keep tax rates where they are today.

My colleagues, remember when we started this discussion, we talked about all the good news we were getting as a result of having a tax system that was finally fair and where people were willing to go out and take a risk and invest and create jobs: 7.4 million new jobs, 21 months of expansion, best revenues we have ever had in the history of this country. That is going to go by the board because you are going to have to jump the first hurdle, the second hurdle, the third hurdle, and then the fourth hurdle with very aggressive points of order which will require 60 votes before we are going to be able to maintain those tax rates.

This budget, which increases taxes by $900 billion, which, as a result, has to be focused on driving those tax rates up because there is no place else you can get the money, is a clear attack on things like the capital gains rate, the dividends rate, the death tax rate, and rates in general, plus all the other extensions, whether they are helping kids or not. The practical effect of this is what you have to worry about.

We are on a path under this budget to become France. That is where we are headed, a tax level which is essentially a French tax level. The American people aren't going to want to work very hard. Well, the French people don't want to work very hard. I shouldn't say that. Maybe they do, they just don't act like they do.

As a result, we are going to find that our Nation's productivity drops precipitously because we are raising our taxes. Under this proposal taxes will go up to 20 percent of gross national product.

Remember that chart I showed you. You probably don't remember it, but I will remind you of it. Historically, the tax rate has been about 18.2 percent of gross national product. Today we are at 18.5 percent of gross national product, so we are actually bringing in a lot more than the historical level. This budget assumes—assumes that we are going to go to 20 percent of gross national product in taxes. That is a dramatic expansion in the size of the government.

What do we get? Well, we get more asparagus growing. We get more COPS Programs, more CDBG, more ag payoff. We are not getting something substantive that is going to, in the long term, straighten out our biggest issue, which is entitlement reform for this dramatic expansion in revenues. What we are getting is more government, more government. It doesn't make a whole lot of sense.

In fact, not only do we have a wall of debt, which the chairman has often mentioned to us, we now have a wall of taxes. You can see how, under the chairman's budget, the tax wall goes up and up and up. The problem with this wall is that when people try to climb over it, they run out of energy after a while and they stop climbing. Productivity drops, people who are willing to take risks stop, jobs dry up, and people come to the conclusion that maybe it is not worth working all this hard because they are going to send all the money to the Government in Washington, and they are not all that confident the Government in Washington spends their money all that well.

Now, the chairman—and I just have to respond to this one because the chairman keeps holding up this chart that says—first, he had the 3 percent chart which mushed the lines, but then he has the chart which says, well, our taxes are about the same as the President's taxes.

What he fails to mention is—well, he did mention it actually, but what he fails to point out is that he uses one scoring mechanism and the President uses another scoring mechanism. He uses apples and the President uses oranges. So that chart is a little misleading.

So I decided to do it apples to apples and oranges to oranges. When you compare the scoring mechanisms equally, you end up with the fact that, my goodness, $934 billion in new taxes under the Democratic proposal, apples to apples, that is CBO. That is the number that I think even the chairman of the committee will acknowledge is how much new revenue he is raising, and under the OMB scoring it would be $600 billion of new taxes. Dramatic increases. Dramatic increases in tax revenues, with the implications, of course, with all of these new budget points of order and all—and the failure to be able to—even out of this building in—where is it—the Cayman Islands or Panama or someplace, this one little building, no matter how he squeezes that building down and crushes it into dust, he cannot get $439 billion out of it. He might get $30 billion out of it, but that still leaves him $400 billion to go, or depending on the other scoring, $570 billion. The only place you can go with this type of money is the American taxpayer. We are not talking about the rich. We are talking about Americans trying to make a living, small businesspeople running a small business.

Most people who live off dividends actually are senior citizens. Senior citizens will be hit heavily by this tax increase. Capital gains—that is where people take risks, and they are not going to change their asset mix anymore and, as a result, it will dry up. This is a huge tax increase budget.

So to summarize, although I hate to do that because I haven't taken nearly enough time, the Democratic budget raises taxes by $900 billion, raises spending on the nondefense discretionary side by $146 billion, and most acutely, in my opinion, although the tax number is obviously daunting, the most acute failure of this budget is that it passes all this debt on to our children and then further burdens them by not doing anything of any significance to address the coming tsunami, which is the entitlement costs which the baby boom generation is going to force on to our kids, making our Government unaffordable for our children.

So I have reservations about this budget. As we go forward, I imagine there will be amendments to reflect those reservations.

At this time, I would like to yield to our leader for 10 minutes, if that is all right with the chairman.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, I would like to respond, and then I will be happy to yield to the leader.

The Senator has used one of the most entertaining presentations I have seen in a long time. I want to give special praise to his staff for his wonderful new charts. I assume that the creative genius behind these charts was the Senator himself.

Mr. GREGG. No, you cannot assume that.

Mr. CONRAD. Let me say I have enjoyed this. It has tremendous entertainment value. There is not a whole lot of factual value but a lot of entertainment value.

Let me say this. The hard reality is regarding the Senator's chart comparing apples and oranges. The problem with that chart is it is not to scale. It is not to scale. If you do a scale of what the President called for in revenue and what I have called for in revenue, here is what it is to scale. The President said his budget would produce $14.8 trillion of revenue; mine, $15 trillion. That is a difference of 1.2 percent. I don't think civilization is going to cease to exist because we get 1 percent more revenue than the President called for.

How do we say we should get it? We say we should go out and close down

the tax gap. That is over $300 billion a year—a year—going after the tax havens, these outrageous scams that are going on that another committee of Congress says is costing $100 billion a year. Then these other egregious tax loopholes where companies and wealthy individuals are buying sewer systems from Europe and using them to reduce their taxes in the United States and then leasing them back to the Europeans.

Now, on this whole question of tax increases, the Senator, to his credit, was square with people about this because when he says I have a $900 billion tax increase, the fact is, the President, in a similar analysis, has a $484 billion tax increase because the President has $328 billion of AMT increase, $104 billion of tax extenders, and $52 billion in this health tax proposal. So the difference between us—both have revenue increases. Both do. The difference in revenue is $439 billion.

As I have indicated, the President called for $14.8 trillion in his budget, and we have $15 trillion in mine, a difference of 1 percent.

The Senator also talked about debt, and he talked about our wall of debt. He didn't mention anything about the President's wall of debt, and he left that out because the President's budget—by the way, our colleague here on the other side has no budget. The only budget from the other side is the President's budget, and the President's budget has $250 billion more debt than our proposal. So when my colleague criticizes our proposal on building debt, you didn't hear him mention a word about the proposal from the President. The only budget we have from the other side has $250 billion more debt than in our proposal.

Here is the wall of debt, not only looking forward but looking to the previous years that their side has built up. The reason, for example, that we still have Social Security funds being used is because our friends on the other side have dug a mighty deep hole. We are on a ladder scrambling to get out, but we are still stuck in a hole they dug, and here is the hole they dug. When they came in, at the end of the President's first year, there was $5.8 trillion in debt. At the end of this year, there is going to be $9 trillion in debt. This is the hole they dug. They controlled the Senate and the House and the White House, yet they put us in this deep chasm of debt. Under the President's proposal, as I have indicated, they would add even more debt—even more debt—taking us to over $12 trillion by 2012.

One of the results of this, because increasingly this debt is being financed from abroad, is that it took 42 Presidents 224 years to run up $1 trillion of our debt held abroad. This President has more than doubled that amount in 6 years. One President, in 6 years, has more than doubled foreign holdings of our debt, a debt which took 42 Presidents 224 years to run up.

On the question of Social Security and who is taking Social Security money, the President's budget is the only budget from their side of the aisle, because our colleagues have no budget. They have presented no budget. They have presented no alternative. The only alternative budget we have from their side is the President's budget. So if we want to talk about Social Security money, their budget uses $1.16 trillion of Social Security money, which is $130 million more than does ours.

So I would ask my colleagues: Where is your budget? Where is your budget? You think we should use less. Where is your budget? The only budget you have is the budget of the President, and it uses more Social Security money, it runs up more debt, and also has massive, or at least large, capped increases associated with it.

So I am a little concerned that the other side hasn't produced any budget other than the President's budget.

When our colleague talks about this big spending increase, there is no big spending increase. It is indecipherable, the difference. It is indecipherable, the difference. On a $15 trillion base, yes, we spend $150 billion more over 5 years. Where does it go? Where does it go? It goes to education, it goes to children's health, and it goes to our Nation's veterans and their health care.

It has been a failure of the other side of the aisle to take care of our Nation's veterans' health care. It has created the scandal that is now here in this town, the Walter Reed scandal. It was a failure on their watch. It was a failure to care for our veterans. We are not going to accept that. We are not going to allow it. So, yes, it requires more money; and, yes, it requires more money for education; and, yes, it requires more money if we are going to provide health insurance for the children of this country.

The Senator also said that under the President's watch, the tax cuts have been very progressive. No, they have not. They have not been progressive. The top 1 percent have income of more than $418,000 a year. They have gotten 71 percent of the benefits of the tax cuts passed by this administration. That is progressive? This is how confused our colleagues have become on the other side, that they think it is progressive when those earning over $400,000 a year get 71 percent of the benefit.

Here is what the average tax cut for a millionaire is in 2006. Those earning over $1 million a year, under their tax plan, got a $118,000 tax cut, on average. They received a $118,000 tax cut, and those earning less than $100,000 got $692. They say that is more progressive? I mean, that is true denial. That is true denial. Those earning over $1 million a year got an average of $118,000 in tax cuts under their plan, and those earning less than $100,000 got $692, and they say that is more progressive. That stands logic and truth on its head.

The drop in the tax rate is the largest for the high-income taxpayers. Those who are in the top 1 percent got a drop of 3½ percentage points in their rates. Those in the bottom 20 percent got three-tenths of 1 percent. That is progressive? I don't think so. That is not the definition of ''progressive'' I learned in school.

Now, he talked about job creation under the Bush administration and he talked about 4.9 million jobs being created. Yes, that is true. In the first 73 months, 4.9 million jobs were created. Let me compare that to the Clinton administration. In the first 73 months of the Clinton administration, 18 million jobs were created. That is over three times as many.

The Senator also held up a chart talking about job creation. Let me make this point. We have gone back to the nine recoveries since World War II, nine major recoveries, and compared this one to those. Here is what we find. This recovery is running 6.7 million private sector jobs short of the average of all of the other recoveries since World War II. This is a success? I don't think so.

It is not just on jobs, it is also on business investment. In business investment, this recovery compared to the nine previous recoveries since World War II, business investment is lagging in this recovery by 68 percent.

What about the median household income under this administration? It has declined. From 2000 to 2005, real median income in constant dollars declined by almost $1,300. Maybe that is why people are working more and earning less. Maybe that is why in the latest Newsweek poll two-thirds of the American people say the economy is not doing well. Two-thirds of the American people say the economy is not doing well.

If we look at the question of recoveries, the Senator held up another chart talking about how well recoveries have done and revenues have done in this recovery. Well, again, if we compare it to previous recoveries, in this recovery we are running $127 billion short of the average of the nine previous recoveries since World War II. Something is very wrong.

On the Senator's revenue chart, he didn't show you the first 4 years of this administration. He only showed you the most recent years. Why didn't he show you all the years? Why did he just show you some of the years? Well, I think here is the reason. It gives a very different conclusion than the one he drew.

When you show all the years, what you see is we have not gotten back to the revenue base we had back in 2000 until 2006. It has taken us 6 years to get back to the revenue base we had back in 2000. He didn't want to show you that. He doesn't want to show you that, after the big tax cuts in 2001, the revenue base went down. It went down again the next year and stayed down the next year and the next year. Only in 2006 did we get back to the revenue base we had 6 years ago.

Maybe that is the reason the debt has exploded under their watch. The deficits grew dramatically under their watch. Increasingly, we are in hock to foreign governments and foreign entities and foreign investors, and our budget says we have to stop it. We have to balance the budget and, yes, we have to look to the longer term.

My own belief is, and I think virtually everyone in this town knows this, the only way we are going to deal with the nagging long-term fiscal shortfalls is with bipartisan agreement, one between Republicans and Democrats, one in which both of us come to the table and compromise. That is what Senator GREGG and I have proposed, a working group, eight Democrats, eight Republicans, with the responsibility to come up with a plan to deal with these long-term fiscal imbalances. My own belief is that is the only way that will happen.

I thank the Chair, and I yield the floor.

Mr. MCCONNELL. Madam President, I always look forward to budget week every year because this debate illustrates the differences between the two parties like no other debate we have in the course of the year. Our budget debate is led by one of our most, if not our most skillful debater and budget expert, Senator GREGG, and I know he will want to respond once again to the observations of our good friend from North Dakota, the chairman of the committee.

Republicans got their first look at the Democratic budget last week. We have been pouring over the details for the last few days, and at this point I can safely say this: If anyone is searching for a political document that reflects the triumph of rhetoric over reality, look no further.

For years, Republicans have politely stood by and listened as Democrats lectured us about the rich—the richest 1 percent is the favorite phrase—while casting themselves as the party of the working class. We have heard from brave Democratic candidates and newly elected Members who tell us we favor the country club set and the CEOs. Many would like to paint us into a modern day Thomas Nast cartoon, chomping cigars and taking care of businessmen at the working man's expense. It is a caricature that has always been wrong and that has persisted so long it has certainly been a nuisance.

Americans usually know better. They look at their paychecks and they ask themselves that simple question: Am I better off now than I was 4 years ago? The answer, for most Americans, is clear: Republican economic policies have lifted tens of millions of working families into the middle class over the last two decades and sparked a general wave of prosperity that few of us could ever have imagined. Americans know it, and so do our colleagues on the other side of the aisle, which is why the budget they are proposing is so disturbing.

Rhetorically, our colleagues on the other side of the aisle have been careful to embrace an appealing script: Keep taxes low, reform entitlements, and control spending. But the rhetoric always meets reality right here in the budget, and this time the collision between the two is straight out of the movie ''300,'' playing right now.

Let's start with the rhetoric. A few months ago, in November, the senior Senator from Delaware was asked whether Democrats planned to raise taxes. Here is what he said: ''Well, the answer is that they will not do that—they won't raise taxes on working and middle class [Americans].''

That was the senior Senator from Delaware on November 5. His Democratic colleagues have stuck to the same script. In early November, voters in Missouri asked the now junior Senator from that State whether Republicans were right to say that she and other Democrats would raise taxes if they took back the majority. ''There's nothing to that allegation,'' she said. ''We're going to cut taxes for the middle class.''

Then there was the now junior Senator from Virginia, who recently laid out a case against Republican economic policies in a Jacksonian-tinged response to the President's State of the Union Address. Talking to the Roanoke Times on November 6, he too denied the Democrats would raise taxes on the middle class. He said he would not ''raise taxes for wage-earning people.'' He would put more burdens on corporations instead, he said.

Well, someone on the Budget Committee isn't conferring with the new Members because the budget the Democrats handed down last week not only contradicts the stated intentions of these new Senators, its passage would represent, as Senator GREGG has pointed out, the greatest tax hike in U.S. history by far, four times greater, in fact, than any previous tax hike. Four times greater.

The last time we saw a tax hike even remotely this big was in the Democratic-controlled Congress back in 1993, and we know what happened the following year. Voter anger over those hikes put Republicans in charge of both Chambers for the first time since 1954. President Clinton himself would lay those electoral losses squarely at the feet of the 1993 tax hike. Speaking later to a group of donors, President Clinton said, ''I'll tell you the whole story about that tax hike. Probably there are people in this room who are still mad at me at that budget because you think I raised your taxes too much. It might surprise you to know that I think I raised them too much too.''

That was President Clinton speaking about his tax hike in 1993.

If President Clinton thought that tax hike was too much, he would choke on this one. The tax hike the new majority party sent down last week is four times bigger than one that he said was too big for Americans—and, ultimately, him—to stomach.

How can the Democrats possibly think the American people will stomach this one?

Do they think Americans are ready to see all the economic gains of the last 5 years washed away by a budget that reinstates every tax we have lowered or repealed over that period?

If this budget passes, those cuts are gone. Extinct. Dead.

And their reimposition would cost working men and women and retirees dearly—nearly $1 trillion over the next 5 years, by our count.

Everyone will take a hit. Despite the Democratic refrain that the tax cuts we enacted in 2001, 2003, and 2005 favor the richest 1 percent, the truth is, the wealthiest Americans continue to pay the lion's share of taxes.

Under the Democrat budget, they would see their share increase even more—disincentivizing the kind of corporate and individual investment that has driven the economic boom of the last several years.

But the wealthiest taxpayers can absorb a hit. They are not the ones this budget hurts the most. That is what is most astonishing about this budget: Working families will take it on the chin.

How? Let me count the ways.

Under the Democrat's budget, 45 million working families with two children will see their taxes increase by nearly $3,000 annually.

The child tax credit is cut in half—to $500, piling one more worry onto the shoulders of parents, not to mention parents-to-be. We should be encouraging and supporting young, growing families in this country, not penalizing them.

Newlyweds are robbed of a measure of their happiness, with the budget cutting the standard deduction for married couples by $1,700.

Far from shifting the burden onto the wealthy, the Democrat's budget would drive up the taxes of an average family of four by more than 130 percent—more than doubling their taxes.

Single parent households would take a hit too. By letting the 2001 and 2003 tax cuts expire in 2010, single-parent families would see their taxes rise by nearly 70 percent.

Senior citizens get hit big.

Again: Despite Democratic grumbling that only the richest 1 percent of Americans benefit from the tax cuts we passed in 2001 and 2003, seniors were a major beneficiary of the capital gains and dividend tax relief. More than half of all seniors today claim income from dividends, and one-third claim income from capital gains.

That's right, this proposed hike will hit more than half of all seniors.

The expansion of the market over the last 2 decades hasn't just benefited the few. It has helped millions of hard-working Americans retire earlier than they could have dreamed of a generation earlier. Democrats see the wealth

that more than 15 million American seniors accumulated over that period, and they want a piece of it.

In a sort of perverse politics of inclusion, business owners and executives, middle-class families of four, struggling single-parent households, and millions of seniors—everyone gets slammed by this budget.

Call it fair but cruel.

This budget represents a tax hike four times greater than the previous record, and Republicans cannot support it. We said at the beginning of the session we would not support tax hikes. We certainly will not support what amounts to the biggest one in American history.

Worse still, the Democrats don't even plan to put their $916 billion in new revenue to good use. They don't take back working Americans' tax relief to pay down the debt or lower the deficit—they want it so they can continue to raise spending to unprecedented levels.

Let's take a look at some of the numbers.

This budget increases annual spending on federal programs over the President's 2008–2012 requests by nearly $150 billion.

It spends more than $1 trillion of the Social Security surplus, increases gross debt by more than $2 trillion between 2008–2011, increases the deficit by $440 billion, and it completely ignores the urgent need to address entitlement reform—this, despite the fact that the new Democratic chairman of the budget committee stated flat out on national television just 2 weeks ago, and I quote, that ''We need to reform the entitlement programs.''

Add it all up and you've got the classic stereotype of the Party of Tax and Spend. Only, this time, it is on a level the likes of which we have never seen before. It is hyperbole, really.

Republicans made a pledge to fight tax increases and to rein in spending, and we intend to stick by it. With this budget, the Democrats have guaranteed quite a fight.

I yield the floor.

The PRESIDING OFFICER (Mr. WEBB). The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me indicate we do not want to let people's imaginations run wild here. Let me just make this flatout statement: We have no proposed tax increase in this budget resolution.

The Senator from Michigan is to be recognized for 20 minutes?

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, first of all, I thank the distinguished chairman of the Budget Committee for his outstanding work and his commitment day in and day out to putting together a new direction for the country in this budget and meeting our fiscal responsibilities, and thanks to his staff for their hard work as well. Also, to our ranking member, the former chairman, we disagree in approach, but I have great respect for him and his staff and the way in which they conduct business and their professionalism.

Before talking about why this is a good budget resolution, let me start out by, in fact, disagreeing with the distinguished Senator from New Hampshire. He says everything is going great all across the country, everything is going great. But just last week, in the newspaper here, the Washington Post, we had a story about a national survey showing a soaring number of homeowners failed to make their mortgage payments. The number of foreclosures of all homes jumped to its highest level in nearly four decades, according to the survey by the Mortgage Bankers Association. The highest level in nearly four decades? Is that because people just don't want to pay their mortgage? Of course it is not. It is because the average people—middle-class families, people working hard every single day—are not feeling the benefits of what the distinguished Senator was talking about.

It is true that you can show numbers—stock market up 58 percent, real GDP up 32 percent, real corporate profits up 36 percent. But the median household income—the majority of Americans working hard every single day, who care about their families and are trying to make a better life for themselves, have seen their incomes go down—in fact, $1,253 over a 5-year period, from 2000 to 2005.

Why? First of all, we have lost 3 million manufacturing jobs in America under this President and during the previous Congress—3 million manufacturing jobs. What does that mean? Good-paying jobs, good wages, pensions, health care benefits, a chance at the future, the hope of sending your children to college—good-paying jobs, 3 million of them lost. I have a list here of just some of those in manufacturing: computer and electronics manufacturing, 543,900 jobs, good-paying jobs, people who have a very different view than what was presented earlier about how great it is right now economically in America. Vehicle parts, machinery, fabricated metal products and primary metals, and right on down, transportation equipment, furniture products, textile mills—43 percent drop in textiles—leather products, right on down through chemicals.

The reality is too many people in this country, the majority of people in this country, have not benefited from the rosy picture we have heard about and we are going to continue to hear about on this floor. Why? Because they have not been the priority under this administration and the previous Congress. They have not been the priority.

The good news about this budget is that in this budget, they are the priority. We are in a new direction through this budget. We are, in fact, returning to fiscal discipline. Yes, we value paying the bills. No more borrow and spend, borrow and spend, over and over again, borrowing, adding up mounds of debt. We are putting us back on the road to fiscal discipline, and we are putting middle-class families first. That is the value base for this budget. That is what we are looking at in the big picture.

In fact, the budget is our value statement. It is about our values and our priorities. It reflects who we are as a country and allows us to shape who we want to be in the decades ahead. This budget is about making sure everybody has a chance to make it. Folks working hard every single day want to know that they are going to see their lives improve, not just some numbers for some people.

Last November, the American people sent a clear signal that they were unhappy with the way this Government was doing business. They chose new leadership for America. They wanted a new direction, a direction that builds on our common values and places a premium on putting our middle-class families first.

We have already made great strides in delivering on those promises and the potential of last year's election. The Senate has passed an increase in the minimum wage for folks working hard every day, working not one but maybe two or three jobs, probably without health insurance, trying to make ends meet for their families. We finally engaged in an open, important, a critical debate on the war in Iraq, and we have taken concrete steps to implement the recommendations of the 9/11 Commission to make our families and our communities safer.

But in many ways, this budget debate, the budget in front of us, is our first big test about who we are and what are our priorities. We are faced with a very simple question: Will we bend to business as usual and deliver a budget that fails, again, to live up to the mandate the country has asked of us or will we do what the American people have charged us to do—deliver a budget that reflects middle-class values and works for American businesses, farmers, workers, and families? That is what our budget resolution does.

It will not be easy. We have inherited a fiscal mess, quite honestly. We have tough choices to make. I love seeing that the wall of debt, the wall that was actually created by the distinguished Budget chairman talking about where we have come from in the last 6 years—I remember in the Budget Committee when we had the largest surplus in the history of the country, over $5.6 trillion. We at that time, the Democrats, indicated in the Budget Committee that we wanted to see a third of that go to tax cuts, a third of it to investments and opportunity and science and the future—education and health care—and a third to prefund the liability on Social Security. We wouldn't be where we are in the Social Security debate if we had done that back in 2001. But that is not what happened. Virtually all of it was put into supply-side economics,

tax cuts for the wealthiest Americans, and then we went into a war that has not been paid for, et cetera. So we are in a hole. We are in a huge hole.

One of the things we always talk about is: If you are in a hole and you want to get out, the first thing is to stop digging. This budget stops digging the hole and puts us on a path of fiscal responsibility. Just like every family in America, the Government has the responsibility to balance its checkbook, and we are committed to putting us in that direction and getting that job done.

We are committed to a return to fiscal discipline and putting a stop to the bad habits of the last 6 years of writing checks the Government cannot cash. Under our budget resolution, we begin to chip away at the problem immediately with the target of 2012, 5 years from now, for completely erasing the Federal deficit.

We know we can do that. It is simply a matter of prioritizing and not spending money we do not have. I was proud to be part of a Congress that balanced the budget in 1997, working across party lines, to keep spending in check. It was not easy. But we understood the long-term health of the American economy and the long-term well being of our middle-class families and our businesses were dependent on making tough choices.

The irresponsible fiscal policies of this administration have gutted our record surpluses and driven us into record deficits. Thank goodness we are beginning now to come out. But it has hurt our families, it has hurt our businesses, and it has put our way of life at risk. We are committed to stopping that.

Second, as we put our fiscal house in order, we need to focus on the priorities that matter to American families, and that is what this budget does. I should mention in talking about that, when we hear about all this spending being talked about, only 17 percent of all the so-called domestic discretionary spending, the money we have the ability to make decisions about, in terms of science and health care and education and environment, public safety, and so on, that the discretionary part of the budget is 17 percent of the whole budget—17 percent. It is invested in the quality of life and the future for the families of this country. Those are critical investments.

What are we suggesting? Well this budget, in fact, focuses on what matters to middle-class families the most. First, people want to know we are going to be investing in education and opportunity in the future for themselves and their children. We commit to health care for every child. We commit to making sure every child who does not have health insurance is able to get health insurance, so that families who go to bed tonight don't worry about what is going to happen—and pray to God, please do not let the kids get sick tonight—they will know there is health care available to them. Frankly, it needs to be step one to make health care available to every American.

Third, we keep our promises to our veterans. This ought to be a given. This budget resolution guarantees that. We provide middle-class tax cuts. We are all for tax cuts; it is about time the middle class got some. That is what this budget resolution does. We restore key investments in law enforcement, health care, technology, protecting our environment. Key investments the President has tried to cut, we have put back and restored those.

Let me speak for a moment about education. Everyone understands the world economy is changing. Our increased reliance on technology and the growing competition in the global marketplace means that today, more than ever, we need to be investing in the best education system possible for our children. We all say that. We all talk about education.

We had a wonderful hearing this morning in the Finance Committee on education. This budget actually does more than talk about it; it takes critical investments and places them as a top priority for us because we know this is the only way we are going to be able to have our businesses competitive and create real financial opportunities for working-class America.

In real-world terms, that means investing more in education and focusing more on innovation. Education policy is economic policy. We understand that. Creating opportunity for everyone who works hard to make it is what America is all about. It is one of the pillars, the foundations of our economy and a huge focus for our families and a huge focus in this budget.

Unfortunately, what did the President do when it came to education last year? Well, he and the Republican Congress, back in Christmas of 2005, cut $12 billion out of student loans. Then the President came back in 2006 with the largest proposed cut in the history of education. Our children deserve better. This budget resolution reflects our commitment to education. Under our budget proposal, we invest $6.1 billion more in education funding than the President's proposal for 2008.

Let me speak for a moment about health care. This is a major priority in this budget. I believe health care should be a right, not a privilege, in this country. We need to be about the job of changing the way we finance it in total and getting it off the back of business. Your ability to remain healthy should not be tied to your employment status or depending upon where you were born or what kind of family you were born into.

In America, we can do better than we are doing, and this budget moves us in the right direction. We spend more on health care, per capita, than any other Western Nation. Yet we have nearly 50 million people with no health insurance. There is something wrong with this picture. We intend to fix it. Americans who do not have regular access to health care also put a strain on our system economically, produce less for society, while at the same time saddling business with the skyrocketing cost of employee health care is making it more and more difficult for our manufacturers and our other businesses to compete globally.

This is an economic issue as well as a quality of life issue. Our budget proposal, this budget resolution, begins to tackle this issue where common sense dictates we should start—America's children. Our children have no choice when it comes to access to health care. They also represent the segment of our population that will reap the most long-term benefits in the introduction of regular, reliable, affordable access to health care.

Programs that exist, namely SCHIP for children, already exist, and it covers millions of American children who do not have insurance otherwise. But this needs to be expanded, and we need to create a priority to say that every child without insurance should have access to this program.

The President's budget designated only $2 billion for children's health care, for SCHIP, $2 billion. To say that this will not get the job done is an understatement. That is why our budget has designated $50 billion, 25 times more than that over 5 years, to fully fund health care for children in America.

Now I might say as an aside because that is a lot of money, we are talking about $10 billion a year to make sure every child in America has access to health care, $10 billion. That is about what we are spending in 1 month in Iraq—1 month in Iraq. We can take 1 month in Iraq for American children. That is what the budget does. It is time to get beyond talking about how children are our future. It is time to walk the walk.

That is what this budget does. Americans also want us to keep our promises to our veterans. The revelation about conditions at Walter Reed Army Hospital over the past few weeks have brought into focus the concerns that many of us in this Chamber have been voicing about the treatment of America's veterans over the past few years. No group of individuals, no group, deserve our respect, support and admiration as Americans more than those who selflessly and voluntarily choose to wear the Nation's uniform.

They put their lives on the line for us every day, and all they ask in return is that when they come home from the battlefield, their Nation, our country, keeps its promises to them, including providing the health care they need and deserve. It is not enough to make statements on Veterans Day or remove military leadership when problems arise. It does not get any simpler than this: If the money is not in the budget then our veterans do not get what they need and deserve.

Now we are not talking about the type of issues that have reared their ugly head at Walter Reed, we are also talking about systematic issues that touch America's veterans in all our 50 States. Inadequate access to doctors and the facilities, extremely long drive times for care, which frequently happens in my State of Michigan, patient backlogs that would make you cringe, our budget addresses what we believe are the shortfalls in the President's plan when it comes to our veterans and their health care.

We have set aside an additional $3.5 billion for veterans health care in 2008 alone. What is most important is that, for the first time, this Senate has a budget resolution that reflects the recommendations of the independent budget, which is the budget of all the veterans organizations about what they believe is needed to adequately fund veterans health care and other critical needs.

Finally, let me say a few words about tax cuts. My friends on the other side of the aisle will try to paint Democrats in this budget as being antitax cut. Nothing could be further from the truth. You know we are going to hear all of this; it does not matter what the document looks like. We also know in advance what the mantra is going to be because it has been that way for years. It has been that way for years. But the reality is very different. I have to say that the—

The PRESIDING OFFICER. The 20 minutes yielded to the Senator from Michigan has expired.

Ms. STABENOW. I would ask for an additional 3 minutes.

Mr. CONRAD. If I can give her an additional minute because we are now down to 9 minutes, and they have got 43 minutes.

Ms. STABENOW. Mr. President, I will take 1 more minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Ms. STABENOW. We support this budgeting through tax cuts that make sense for middle-class families. That is who needs the tax cuts. We talk a lot about these tax cuts being given. You ask the average family if they feel like they have gotten a tax cut. They tell me: No. Because they did not get it. People are smart enough to know they did not get it.

Well, we have put in place tax cuts for the middle class. We have started with the alternative minimum tax, which is about ready to hit a whole new group of middle-class taxpayers. We make sure that our Tax Code gives middle-class families a leg up and does not punish them for working hard and being successful.

Finally, we go on to make sure we reinstitute, as I said in the beginning, law enforcement, transportation, community development, protecting our environment, which is a very small part of the budget but critical for our families.

The bottom line is this budget works for people. This is about middle-class families, the values of the majority of Americans, and doing it in a responsible way. I urge the adoption of the budget resolution.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that an additional 30 minutes of debate time be added to the original 3 hours, equally divided.

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

Mr. GREGG. I yield 40 minutes to the Senator from Iowa.

Mr. GRASSLEY. Madam President, a few minutes before the last speaker, you heard the chairman of the Senate Budget Committee say there is no tax increase in the budget that is before us.

Well, technically that is correct, if you consider allowing existing tax law to sunset on December 31, 2010. If you do that, we are going to have the biggest tax increase in the history of the country without a vote of Congress, without a vote of any of us, the biggest tax increase in the history of the country, January 1, 2011. This budget covers that period of time. I don't know how you can say there is no tax increase in this budget, if we are going to have the biggest tax increase in the history of the Congress without a vote of the people, if you have an opportunity to do something about it and keep taxes where they presently are. That is what is in this budget. There is not going to be an attempt to keep taxes where they are so the existing tax laws sunset and we have the biggest tax increase in the history of the country, January 1, 2011.

We have a budget by the majority party, the Democratic Party, before us because the people spoke in November. For the first time in 12 years, the Democrats are in the majority and, consequently, control the congressional budget process. As ranking Republican on the tax-writing Finance Committee, I was not consulted, nor did I expect to be, by the chairman of this year's budget resolution. Unfortunately, after reviewing this resolution, which was presented 5 days ago, it is abundantly clear it does not realistically address the possibilities of the Finance Committee carrying out what are its supposed responsibilities under this budget resolution.

Despite claims to the contrary, this budget does not provide for even 1 year of alternative minimum tax relief, let alone 2 years, or even a 1-year extension of provisions of various tax laws that expire from time to time and that we normally reinstitute. It does not provide for that as well. So this budget puts the burden on the Finance Committee to come up with the offsets to pay for the alternative minimum tax relief and for what we refer to as extenders, things that are normally extended by the Congress because they are things the economy demands be extended.

Press reports have largely echoed the defenders of this resolution on the needs of the Finance Committee. I strongly suggest the media folks take a very careful look at the claims of the Democratic leadership and see how they stack up against the cold, hard fiscal numbers and the operating history of the Finance Committee in these policy areas. They would find it does not square with the reality of what is possible for the Finance Committee.

I back up that statement with these numbers. Over the 5-year budget window going out to the year 2012, keeping existing policies in place will have a revenue effect of about $916 billion. This includes alternative minimum tax relief, extension of bipartisan 2001 and 2003 tax relief, and extending other broadly supported expiring provisions. In the aggregate, this budget provides no resources for extending these policies over the 5-year window. In so doing, we end up with the biggest tax increase in the history of the country without Congress voting for it. Yet somehow the chairman of the Senate Budget Committee can say there are no tax increases in this budget.

I go back to the grassroots. As a family farmer, which I am, I like to think we country folk can teach city folk a lesson or two by referring to the country's sayings and metaphors. Although I am going to be using numbers, you will recognize some rural touchstones in the chart I am using, which is this chart of a well where you get water. The first chart involves the method a lot of us farmers use to get our water, through the well on our family farm. You will see the well in this chart.

Here is the top of the well. My colleagues can see it is a long well and a very deep well. There is some water way down at the very bottom, but most of this well in between is very dry. At the top of the well we see the number that represents the rough—and it is probably a bit on the low side—amount of the revenue raisers in this budget, and it assumes we on the Finance Committee will be able to find $916 billion. That is revenue we would have to find offsets for over a 5-year period to pay for extending existing tax policies that expire during this period. If we don't do it, that is where I continue to make the point we are going to have the biggest tax increase in the history of the country.

Of course, this is talking about existing tax policy. It doesn't even include any new starters such as tax relief to encourage renewable energy which most Members of this body are talking about, or tax relief to help education which a lot of Members of this body, including this Senator, have talked about, and a lot of new starters such as providing tax benefits to help the health care problem. A lot of us in this body talk about that. It doesn't include renewable energy, education, and health care. So this budget assumes the well of revenue raisers is full to the brim. We can see it is not.

As a farmer, I know something about the predictability of wells. You hope

you will get a lot of rain and it will give you a decent level of water. As former chairman and now, because we Republicans are in the minority, ranking member of the Finance Committee, I think I know something about revenue raisers and how difficult or how easy it might be to raise a certain amount of revenue. I have been there. I have done that. When I was chairman of the Finance Committee, I aggressively led efforts to identify and enact sensible revenue raisers and at closing the tax gap and shutting down tax shelters. As ranking member, I continue to look for ways to shut off unintended tax benefits. I consider myself to be a credible authority on what is realistic when it comes to revenue raisers.

This budget is not realistic. From 2001 through 2006, Congress enacted over 100 offsets with combined revenue scores of $1.7 billion over 1 year, $51.5 billion over 5 years, and $157.9 billion over 10 years. That figure is reflected on this chart. That would be the figure of $51 billion enacted over a 5-year timeframe.

To show I am not making this up, I ask unanimous consent to print in the RECORD a table that shows the track record on enacted offsets. These numbers are conservatively high because they include repeal of the FSC/ETI to comply with the ruling of the World Trade Organization which could not have been done without also providing tax relief with the manufacturing deduction.

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

REVENUE RAISERS ENACTED SINCE 2001

(Amounts in millions of dollars)

	# of provisions	1-yr	5-yr	10-yr
Military Family Tax Relief Act of 2003				
Extensions of Customs User Fees	2	619	1,305	1,305
American Jobs Creation Act of 2004				
Repeal of FSC/ETI (to comply with WTO ruling)	1	354	16,411	49,199
Provisions to Reduce Tax Avoidance Through Individual and Corporate Expatriation	6	139	526	1,343
Provisions Relating to Tax Shelters (including SILOs)	21	1,182	10,328	33,236
Reduction of Fuel Tax Evasion	21	625	4,380	9,138
Other Revenue Provisions	30	(1,335)	13,601	38,249
Total	79	965	45,246	131,165
Energy Tax Incentives Act of 2005				
Revenue Raising Provisions	4	2	1,491	3,028
Highway Reauthorization and Excise Tax Simplification (2005)				
Provisions to Combat Fuel Fraud	7	(10)	297	607
Gulf Opportunity Zone Act of 2005				
Interest Suspension Modification	1	50	50	50
Tax Increase Prevention and Reconciliation Act of 2005 (2006)				
Revenue Offset Provisions	14	104	3,086	21,787
Grand Total	107	1,730	51,475	157,942

Source: Finance Committee Staff summary of revenue tables prepared by the Joint Committee on Taxation

Mr. GRASSLEY. The legislation that contains these provisions spans years so they don't correspond on a year-by-year basis. The point here is to look at what Congress was able to accomplish over a 6-year period as evidence of what it might be able to accomplish over the 5-year window of the budget resolution. Some might say it is comparing apples and oranges, because the House was under Republican control during that period. But as we are seeing, Democratic control does not seem to have changed the allergic reaction of the House of Representatives to revenue raisers. Because during the markup, while the chairman of the Budget Committee was holding up his chart, as he did today, with a picture of a German sewer system that U.S. companies are claiming phony depreciation deductions on through abusive leasing transactions, the chairman of the Ways and Means Committee in the other body was holding a hearing and somehow sympathizing with lobbyists about how it is bad tax policy to shut off these tax benefits.

The most significant package of revenue raisers over this period was in the American Jobs Creation Act of 2004. I took a lot of heat on those revenue raisers, as shown in the Congressional Daily article entitled ''Balance of Payments, A Closer Look at Tax Bill Losers.'' This article refers to the revenue raisers in the Senate passed JOBS bill as ''the most significant rollback of tax loopholes since 1986.''

I ask unanimous consent that that article be printed in the RECORD.

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

BALANCE OF PAYMENTS—A CLOSER LOOK AT TAX BILL LOSERS

By now we're well aware of the winners in the Senate's just-passed, $170 billion-plus, corporate tax cut package—they include NASCAR racetrack operators, Oldsmobile dealers and Learjet makers, as well as large manufacturers and multinational companies more generally.

But one almost-overlooked aspect of the bill—and perhaps the one that packs the most significant impact over the long term—is the number of losers the bill would create.

The insistence by Senate Democrats and a few dissenting Republicans that all tax cuts be balanced out by offsetting ''revenue raisers'' has given birth to a peculiar form of alchemy on the Finance Committee. The new tax breaks are offset by provisions shutting down tax shelters and closing a vast array of perceived ''loopholes,'' which will raise upwards of $60 billion for the Treasury over 10 years.

Finance Chairman Grassley said the revenue offsets in his bill are designed to punish tax cheats and corporate criminals. The revenue-raising provisions, if they eventually become law, will be the most significant rollback of tax loopholes since the 1986 law that changed the passive loss rules, observers said. They include new, stiff penalties for failure to disclose tax shelter activities, codification of the economic substance doctrine and an end to abuses brought to light by the Enron scandal.

But skeptics in the House and on K Street believe some offsets are a product of panning in the revenue stream of the U.S. government for tax cut gold. The rocketing cost of Senate bill and the parallel drive to create money-saving offsets have led the Finance Committee to over-reach, they claim.

House Ways and Means Chairman Thomas criticized the Senate approach in a Q&A with reporters last week, saying that the Senate has the tendency to turn striving for revenue neutrality ''into a mechanical exercise.'' He said this led to some situations in which ''the revenue you are reaching for is not the same as the policy you are trying to cover.''

The most significant piece in terms of the money it raises—$42 billion over 10 years—is provisions to curb abusive leasing transactions, under which taxpayer dollars have literally been used to help finance dozens of foreign and domestic infrastructure projects, including sewer systems and subways, while the large financial institutions that structured the deals raked in billions.

Almost no one in Washington argues that no legislation is needed to stop the abusive leasing transactions, but the way the Senate went about it has raised a few eyebrows. By moving back effective dates and other adjustments, GRASSLEY gradually expanded the scope of the provision to squeeze a greater number of transactions as tax cuts were added to the bill, making it more costly.

Particularly galling to some Republicans in the House and Senate was making the new curbs applicable to transactions entered after Nov. 19, 2003, which they argued makes the provision retroactive. But Senate aides said that was done to thwart a ''rush-to-market'' of promoters of the leasing transactions seeking to close deals under the wire.

''The fact that it was moved back continually to pay for various items might suggest that revenue had some kind of relevance,'' said Kenneth Kies of Clark Consulting, who lobbies on behalf of a coalition that wants the leasing benefits preserved.

Hill sources said THOMAS and other Republicans, including some from the Senate, would insist in an eventual conference committee that the Senate language making the leasing provisions retroactive to last year be removed.

Also stirring some controversy are new limits on the amount individuals could deduct for donating automobiles to charity. (Full disclosure: My 1991 Buick was worth a

$950 deduction to me on my 2003 return. I went with the book value for ''good'' condition and wished the American Lung Association best of luck getting that much for it. Under the new rules in the Senate bill, I would have been able to deduct only what the charity reported to me was the actual resale price of the car.)

Most donated used cars are sold at auction, and charities for which car donations are an important part of their fundraising are arguing to lawmakers that it is unfair to limit taxpayer deductions to the liquidation price when many could fetch more for cast-off autos if they found a private buyer themselves.

Charities—including the National Kidney Foundation, the American Cancer Society and the American Lung Association—are shopping alternative language to House tax writers for inclusion in the House FSC/ETI bill.

Business sources say a provision tightening rules on deferral for income derived from contract manufacturing overseas is an example of where the Finance Committee reached for a revenue raiser without fully understanding the policy consequences. The provision was struck from the bill in the hours before final Senate passage.

''The folks that were advocating that as a possible revenue raiser—at a time when people were looking for revenue raisers—didn't appreciate the extent to which most of contract manufacturing is a completely legitimate, appropriate business strategy,'' said Dan Kostenbauder, vice president of transaction taxes for Hewlett-Packard. ''This is not like someone found a fancy tax dodge.''

Mr. GRASSLEY. Looking then at the 5-year numbers, Congress has enacted $51 billion of revenue raisers since 2001. That happens to be only about 6 percent of the amount that is needed to make the budget we are debating now work, without regard to any new relief which will also have to be paid for.

What other revenue raisers have been identified and scored? Because we are always looking for them, because we are always getting scores for them, there is always going to be some need for them. The President's budget, for instance, contained a package of 16 tax gap measures that the Joint Committee on Taxation scores as raising $5.7 billion over 5 years. We can see that figure reflected on this chart. The Democrats have identified raisers that amount to $35.6 billion. So we have $42 billion of identified and scored revenue raisers. Let's look at how that figure compares to the budget before us. That is only about 5 percent of the amount that is needed to make this budget work. Based on these facts, the likelihood that the Finance Committee, the tax-writing committee of the Senate, will be able to come up with revenue raisers of this magnitude is remote at best.

If that is the case, what will then happen? The revenue side of the budget will be ignored, but the spending side will be followed. The net effect will be a massive tax increase, a bigger deficit, or both. I am letting my colleagues know the revenue-raising well is about 5 to 6 percent full, not 100 percent full, as it would take to do it. If we look at the Finance Committee tax staff's aggressive record on revenue raising as a guide, we might be able to fill the revenue of this well a little bit more, but there is no way we can get to where this budget purports to go.

In conclusion, this budget represents a dramatic step backward for the American taxpayer. For the first time in 6 years, this budget is a barrier, not a path, for bipartisan tax relief for virtually every American taxpayer.

I have another chart that uses a farm analogy. We farmers are frequently visited by Canadian geese as they fly south down the Mississippi ''fly-away'' for the winter, and as they come north for the spring. Geese are not like chickens in that they do not hang around to lay eggs. Here is a chart with a goose on it. This chart shows that the budget guarantees a goose egg for tax relief.

City folks know the term ''goose egg'' means zero. For the first time in 6 years, that is what the American public is getting in guaranteed tax relief—a goose egg. That is what they are getting—zero, zip, nothing. So take a look at our track record. Take a look at the revenue offsets Senate Democrats have identified and scored. What you will see is a minimal amount, as the well chart showed. This budget, then, puts an unrealistic demand on the revenue offsets that are possible. The well of offsets cannot be filled to the level the budget assumes. It is so unrealistic as, in my judgment, to be fictitious. It means virtually every taxpayer gets a goose egg.

Now, for 6 years, we have heard the primary reason for partisan opposition to popular bipartisan tax relief is fiscal responsibility. Where is the fiscal responsibility on the spending side of the ledger in this budget? If you take a look, you will see that goose egg again.

So after 6 years of fiscal responsibility arguments, you would think if the American taxpayer was going to get a goose egg in tax relief, the party in power would show us more than a goose egg on the spending restraint side. Not so. As a matter of fact, spending goes up several hundred billion dollars.

As ranking member of the Finance Committee, I am sorry to say this budget does not even attempt to mesh the demands of the Finance Committee with the numbers in this budget. From my Finance Committee perspective, we might as well demand we have 60-vote bills. That is the only way you can ignore the budget resolution. There is no way for offsets of the size that is demanded here that are possible.

I hope deficit hawks on both sides of the aisle pay close attention. The only thing certain is new spending is going to occur. That is the only thing that is going to happen. The deficit impact of not realistically dealing with the tax, trade, and health policy priorities of the Finance Committee disguises the deficit built into this budget.

I am going to have more to say on this disconnect between the Finance Committee policies and this budget as we continue this debate in coming days. Today, I merely wished to show the Senate how the numbers on the revenue side do not work. As we take up amendments, I am hopeful we can make this budget mesh with what is possible for the Finance Committee to do and the policy demands before that committee.

I also wish to discuss another thing that is going to be heavily discussed, in fact to some extent has already been discussed with this budget; that is, the sources of revenue the chairman of the Budget Committee claims will help offset the 5-year $916 billion cost of extending existing tax policy. That happens to be something I like to talk about because I like to do things in this area—shutting down offshore tax havens.

I have been aggressive in combating abusive tax shelters offshore and otherwise. As chairman of the Finance Committee, I worked hard to shut down offshore tax evaders. I already referred in my remarks today to the 2004 JOBS bill, shutting down the tax benefits for companies that enter into corporate inversion transactions and abusive domestic and cross-border leasing transactions.

Mr. GREGG. Will the Senator yield for a question?

Mr. GRASSLEY. Yes.

Mr. GREGG. On the issue of loopholes, the Senator is a leading expert in this Chamber. Mr. CONRAD, the Senator from North Dakota, the chairman of the committee, has, on a number of occasions, said as to offshore tax planning, when you go on Google and put in ''offshore tax planning,'' you get 1.2 million hits on Google for sites you would go to to find out how to game the tax system.

I was wondering if the Senator was aware, when you put ''Democratic tax increases'' into Google, you get 1.5 million hits.

Mr. GRASSLEY. Well, I could imagine so because they are a party that enjoys increasing taxes. So I can understand that.

Mr. GREGG. I thank the Senator for answering the question.

Mr. CONRAD. Will the Senator yield for a question on this issue?

I was going to ask the Senator, was this on the Republican National Committee Web site?

Mr. GRASSLEY. Of course not. It is on the real Web site.

Well, I referred to this 2004 JOBS bill before in my remarks, shutting down the tax benefits for companies that enter into corporate inversion transactions and abusive domestic and cross-border leasing transactions.

The JOBS bill also contains a package of 21 antitax shelter provisions. That has been law since 2004.

As ranking member of the Finance Committee, I saw to it that the minimum wage and small business tax relief package also contained antitax loophole provisions—and that stuff is still before the Senate—including shutting off tax benefits for corporations

that inverted after Senator BAUCUS and I issued a public warning that legislation would stop these deals, shutting off tax benefits from abusive foreign leasing transactions that were not caught by the JOBS bill, and doubling penalties and interest for offshore financial arrangements.

But again, I refer to the Democratic chairman of the tax-writing committee in the other body, the Ways and Means Committee, who does not appear to be supportive of these provisions based upon a hearing he had last week, even though—even though—the same Member of the other body voted for many of them in the public JOBS conference in 2004.

So having studied these issues and having legislated in this area, I consider my views on tax policy directed at tax shelters and tax havens to be credible. From what I can tell, the distinguished chairman of the Budget Committee in the Senate views the problem of offshore tax havens in two categories: One, the ability of U.S. multinationals to shift income to these tax havens; and, two, tax evasion by U.S. individuals who hide assets and income in tax havens.

We have seen Democratic Senators, including the chairman of the Budget Committee, hold up a picture of the Ugland House, a law firm's office building in the Cayman Islands, as home to 12,748 corporations. I would like to give Senators some background on where that picture comes from and at what issue it is aimed.

That picture comes from an article published in Bloomberg Markets in August 2004, and it is titled ''The $150 Billion Shell Game.'' The article focused on the ability of U.S. multinationals to shift income to low-tax jurisdictions through transfer pricing. Transfer pricing is a term for how affiliated corporations set the prices for transactions between them. Transfer pricing is important because it determines how much profit is subject to tax in different jurisdictions involved in related party transactions.

The $150 billion figure is an academic estimate of the annual amount of profit that corporations shift outside the United States with improper transfer pricing. That is what the $150 billion figure is. Let me make that clear. It is an estimate of the annual amount of profit that corporations shift outside the United States with improper transfer pricing.

So this article is aimed at U.S. corporations that artificially shift their income to low-tax jurisdictions through improper transfer pricing practices. To illustrate this point, I have produced a few quotes from that article. The first one says:

Under U.S. law, U.S. companies can use Cayman subsidiaries and transfer pricing rules to shift sales and profits from other countries, thus reducing their overall tax burden.

Another quote:

A practice called transfer pricing may be the key to how U.S. corporations avoid taxes in the U.S. and other countries.

That last quote is from my colleague, the Senator from North Dakota, Mr. DORGAN.

One of the Democrats' revenue raisers, then, that is still on the shelf purports to target this transfer pricing problem. But you would not know it by looking at the language of the proposal because it does not make any changes to our transfer pricing rules. Instead, the proposal would eliminate deferral for income of any U.S. multinational's foreign subsidiaries incorporated in certain black-listed jurisdictions. It is called the tax haven controlled foreign corporate proposal. I am going to call it CFC for short.

Part of our Tax Code since 1918, ''deferral'' means that U.S. multinationals do not pay tax on active income of their foreign subsidiaries until that income is repatriated to the United States. Passive income is subject to tax on a current basis. Deferral only applies to active income.

I agree with the premise of this proposal that U.S. multinationals should pay their fair share of U.S. taxes. U.S. multinationals that use improper transfer pricing do so to obtain the benefits of deferral on profits that, economically, should be subject to tax in the United States on a current basis. Here is my quote from the Bloomberg article:

We have to get on top of corporate accounting and manipulation of corporate books for the sole purpose of reducing taxes.

Nobody is going to disagree with that.

So my view is that stronger transfer pricing rules and stronger enforcement of those rules is the right way to target this problem in our current international tax system. The Internal Revenue Service is taking steps to tighten our transfer pricing rules.

In 2005, that agency proposed regulations that would overhaul the rules for so-called cost-sharing arrangements. These are arrangements by which U.S. multinationals are able to transfer intangible property to subsidiaries in low-tax jurisdictions. Based on the volume of complaining I have seen lobbyists level at the Treasury and the IRS, the proposed IRS regulations would go a long way to prevent artificial income shifting. I hope to see these regulations finalized very soon.

Others have different views. They would eliminate deferrals altogether. So another quote in the Bloomberg article succinctly states this view. This is a quote from Jason Furman, a former aide to Senator KERRY of Massachusetts. It says:

American companies should pay taxes on their profits in the same way whether they earn them in Bangalore or Buffalo.

Now, that might sound simple enough, but that is where these proposals to eliminate or curtail deferrals on a piecemeal basis are headed—headed in a way that is going to be harmful, to completely eliminate deferral for U.S. multinationals. Without a significant corporate tax rate reduction—and I would be in favor of doing that—eliminating deferrals would have the effect of exporting our high tax rates and putting U.S. multinationals at a competitive disadvantage in the global marketplace. When I said I would be in favor of reducing our corporate tax rates, that is because other countries are doing it and if we don't soon do something along that line, we are going to lose a lot of business and particularly a lot of manufacturing here in the United States.

The Senate is on record as wanting to protect the competitiveness of U.S. businesses in the global marketplace. That is what the American Jobs Creation Act of 2004—an act I referred to several times today which contains several international simplification provisions, and with a vote of 69 Senators, including 24 Democrats, we passed that bill. The Senate version of the JOBS bill passed with a more bipartisan majority—92 Senators, including 44 Democrats.

There has been a longstanding debate about whether our international tax system should be fundamentally changed. Some advocate taxing all foreign income on a current basis; others argue for completely exempting active foreign income under a territorial system, as many of our trading partners do. If we want to have that debate, that is a very fair debate to have, but piecemeal cutbacks on deferral for active foreign income would do nothing but complicate the Tax Code and create opportunities for tax planning around those cutbacks.

The other offshore issue identified by the chairman of the Budget Committee is U.S. tax evasion by individual taxpayers who hide their assets and income in foreign bank accounts and foreign corporations. Since 1913, our Tax Code has subjected U.S. citizens to taxes on their worldwide income. No matter what the Internet purveyors of tax evasion say, this principle cannot be avoided by putting passive assets and income into a foreign corporation. The Tax Code has rules to prevent this. Taxpayers who do that willingly violate these rules and, of course, are guilty of tax fraud and, in some instances, may even be guilty of criminal fraud.

So the problem of offshore tax evasion isn't that our laws permit it; the problem is there are some taxpayers who are intent on cheating, intent on hiding their income from the Internal Revenue Service. The Service has been successful in catching many of these, but more can be done, and I will help do it.

The Service has difficulty detecting tax evasion and obtaining the information necessary to enforce our laws. One important tool for the IRS is information exchange with other jurisdictions. Our double tax treaties contain an article on information exchange designed to help the IRS obtain quality information to enforce our tax laws. In addition, administrations past and present

have entered into over 20 tax information exchange agreements with jurisdictions that are often referred to as tax havens. Sensible solutions to this problem should aim to improve on our tax information exchange network and not put it at risk.

Underreported income is the largest piece of the tax gap. We should keep in mind that hiding assets and income from the IRS isn't just an offshore tax haven problem; it may also be an onshore problem. A recent article in USA Today noted that there is:

A thriving mini-industry that has capitalized on real or perceived gaps in domestic incorporation laws and virtually nonexistent government oversight to promote some U.S. States as secrecy rivals of offshore havens.

The picture of the Ugland House in the Cayman Islands makes for good grandstanding, yes, but there are also office buildings in some States that are listed as addresses for thousands of companies which are incorporated in those States for similar reasons as corporations may be incorporated in the Cayman Islands; that is, secrecy of ownership and a permissive regulatory environment.

Whatever additional solutions the Finance Committee comes up with to shine sunlight on tax evaders will need to consider both offshore as well as onshore evasion.

To conclude, I wish to emphasize that I am all for shutting off inappropriate tax benefits from offshore arenas. The chairman has said he thinks we could get $100 billion a year from this source. I haven't seen any proposals scored by the Joint Committee on Taxation that come even close to bringing in that kind of money. The last score I have seen for the tax havens CFC proposal is $7.7 billion over 5 years. Senators LEVIN, COLEMAN, and OBAMA have recently introduced a bill which contains several proposals aimed at offshore tax havens, but I haven't seen a Joint Committee on Taxation score on it yet.

So once again, it will be the Finance Committee's responsibility to come up with real, sensible, effective proposals to combat offshore and onshore tax havens, and I am glad to do it, as I have over the last several years. But the likelihood that they will be scored by the Joint Committee on Taxation to bring in the kind of money assumed in this budget resolution is remote at best, and it borders on, I believe, blue smoke.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, first of all, I have previously commended publicly the former chairman of the Finance Committee for the work he has done in this area, and I wish to commend him again because I consider him an ally in this effort and somebody who has been serious about going after tax havens and somebody who has been serious about going after abusive tax shelters. In fact, I have even quoted him, and let me quote him again. Here is what he said last year at this time on the Senate floor:

Just in the period of time since 2001, our committee has raised around $200 billion in new revenues by shutting down tax shelters, by closing inversions, and other abusive tax schemes.

I believe that is the case.

Continuing:

Now, just in the year 2004 alone, the Finance Committee fully offset a $137 billion tax bill at no expense to the American taxpayers.

Mr. GRASSLEY. Those are 10-year figures.

Mr. CONRAD. I understand, 10-year numbers. But we are talking about 5-year numbers of $439 billion. Let me say, if they can do that, these extraordinary numbers, and we combine not only tax gap with tax havens and with abusive tax shelters, I believe we could easily get that $439 billion. Again, the President said his budget would produce $14.8 trillion in revenue. We are saying $15 trillion. That is a 1.2-percent difference.

Finally, this is from the Senate Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations:

Experts have estimated that the total loss to the Treasury from offshore tax evasion alone approaches $100 billion per year.

I rest my case.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I know the Senator from Massachusetts is waiting patiently, and I just have a couple of quick questions I wanted to ask the recent chairman, now ranking member, of the Finance Committee, who I think is regarded as an expert in the area of how we get at these people who are avoiding our tax system. He has obviously studied this issue.

Could the Senator from Iowa give us his thoughts as to how much you could raise relative to loophole closing that is legitimate—I mean versus a stated number, which can always be fairly high? But what is the real number one could actually generate over the next 5 years, in the Senator's experience and as a result of his studying this issue?

Mr. GRASSLEY. I am glad to answer that question because I think, if you look at what this budget assumes, raising this much money—

Mr. GREGG. Madam President, $434 billion minimum; $900 billion, actually.

Mr. GRASSLEY. I think it is about like this, maybe $30 billion, $35 billion at best.

Mr. GREGG. That would be a 5-year number?

Mr. GRASSLEY. Five-year number, yes.

Let me say, if I could raise the amount of money which is assumed to be raised here, I would have done away with the alternative minimum tax a long time ago because you need that kind of offset to get that job done over the long haul.

Mr. GREGG. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Madam President, the Senator from Iowa is much too modest. I have much greater confidence in his abilities and the abilities of the other members of the Finance Committee—a committee, by the way, on which I serve—to do far better.

Look, we are talking about a tax gap over this period alone of $2 trillion. Fifteen percent of that would be $300 billion. I don't know if we can get that amount, but I would say to the Senator, when we put it all together, when we put together the tax gap, tax havens, tax scams, abusive tax shelters, there is a ton of money there. Just in this offshore area alone, another committee of Congress, the Investigations Subcommittee, says $100 billion a year is being lost.

There is a lot of money here, without any tax increase to anybody, just collecting—let me just give one other example—this is very interesting—on compliance. If we were able to increase our compliance from 86 percent to 89 percent, we would raise the total amount of revenue that is in the budget I have proposed. Again, the President said his budget would raise $14.8 trillion. Here is what he said. He said his budget would raise $14.8 trillion. My budget raises $15 trillion. That is a 1.2-percent difference.

Civilization is not going to end if we do a better job of collecting the revenue that is due. Civilization is not going to end if we successfully go after these abusive tax shelters. We can do this. We need a lot more confidence in ourselves. We need to be a little optimistic. You know what. America can do this. We can do this.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Madam President, I am sorry to delay the Senator from Massachusetts, but it is only because the Senator from North Dakota has delayed him.

It is important to note that the IRS Commissioner testified before the Budget Committee. He said the most we could probably recover over the next 5 years over and above what they have already recovered—because they believe they have done a good job of expanding their actions in this area for owed but uncollected taxes—the most in the last year would be $20 billion, and the most over the entire period would be somewhere between $30 billion and $40 billion. That is the tax gap. There is no $400 billion sitting there.

The Senator from Iowa, who is the expert in the area of these offshore activities, how you get to them, how you can structure better ways to get to them, has said—and I think in a very commonsense way, common sense being one of the things he is most respected for around here—if these type of dollars were available, he would have gone after them in order to take

care of some other issues that are very important, such as the AMT.

So I have referred to this budget as the budget from the Land of Oz because somewhere behind the curtain, somebody is supposed to develop all this money. Regrettably, there is probably no curtain and nobody behind it, even though the Senator from Iowa would probably be as close as you could get around here to somebody who has that sort of wizardry. He cannot produce and his committee cannot produce the type of dollars that are being proposed here unless you raise rates.

I would ask the Senator from Iowa if he does not agree with that assessment and if he has any further comment on this issue.

Mr. GRASSLEY. I agree, yes. I emphasize that we are told by the chairman of the Budget Committee time after time that there is no tax increase in this budget. But if you do nothing—and doing nothing is not an excuse to have the biggest tax increase in the history of this country go in without even a vote of Congress. If you are going to raise taxes, you ought to at least vote them up, it seems to me, so you can be held responsible. It seems to me to be very irresponsible to say that you can have the biggest tax increase in the history of the country and not think you can do economic harm and strike a blow against economic freedom for individuals.

Mr. CONRAD. Madam President, when they make this Wizard of Oz reference, I do remember words from the Wizard of Oz: brains, courage, and heart. That is what we need here. I believe we have the brains in this country to go after a tax gap that is well over $400 billion a year now. That is $2 trillion over 5 years, and it should return substantial money to the Treasury of the United States. I believe we can go after these tax havens that another committee of Congress has said are running a revenue loss to this country of $100 billion a year. I believe we can shut down these abusive tax shelters that have the spectacle of wealthy investors in this country buying European sewer systems and depreciating them on their books so they hold down their U.S. taxes and then lease them back to these foreign enemies.

Come on. We can't capture 15 percent—15 percent—of the tax gap and the tax haven abuses and the tax shelter scams? We can't do that? Well, if we can't, they ought to get a new bunch in here. They ought to get a bunch of new Members of the Senate and the Congress of the United States. If we can't increase the compliance rate from 86 to 89 percent, they ought to get some new Senators in here. They ought to get some new Congressmen in here to get the job done, because that is a job the American people deserve to have accomplished.

Mr. GREGG. Madam President, I appreciate the enthusiasm of the Senator from North Dakota for his theory that you can get $434 billion from behind the curtain, but we have to at least acknowledge the fact that experts in this area, including the Commissioner of the IRS, the former chairman of the Finance Committee, the present ranking member of the Finance Committee, have all said you can recover some dollars here, but that type of pot of gold is not there.

The yellow brick road the Senator wishes to follow, and which his bill is basically forcing us to follow, will increase taxes by $900 billion, and we know where it is going to come from. It is going to come from raising rates, raising rates on American workers and Americans generally. There is no other place to get it.

If that were not the case, then we wouldn't have structured within this budget, or he would not, or the Democratic Party would not have structured within this budget all these mechanisms to absolutely guarantee that rates have to be raised. Point of order after point of order after point of order makes it virtually impossible to maintain rates where they are.

You can throw up the smokescreen of, well, we are going to get it from here and there, but we are not going to get it from the place that is obvious. Well, if it looks like a duck and walks like a duck, it must be a duck, and the duck here is that tax rates are going up.

Mr. CONRAD. Madam President, look, this isn't that hard. The President said in his budget he was going to raise $14.8 trillion. In my budget, I say $15 trillion. That is a 1.2 percent difference. I don't believe for a minute that we can't raise that difference by going after these abusive tax shelters, these offshore tax havens, this looming tax gap. The tax gap alone is going to be well over $2 trillion over these 5 years—$2 trillion.

It seems to me it is very clear. I used to be a tax commissioner. I have audited the books—Senator DORGAN and I are perhaps the only ones here who have audited the books and records of companies operating on an international basis. I went to my legislature and told them I would produce this kind of additional revenue if they would increase my budget. They did, and I did.

I know this can be done. This isn't an imagining to me. I have done it. Senator DORGAN has done it. We have actually checked the books and records of companies. We have found extraordinary sums of money for the little State of North Dakota. My goodness, if it can be done for North Dakota, it can certainly be done for the United States.

Mr. DORGAN. Madam President, will the Senator yield for a question?

Mr. CONRAD. I will yield.

Mr. DORGAN. I have listened with interest for the last little bit while my colleague from Iowa was on the floor. It appeared to me he was defending some of these tax breaks. I couldn't quite figure that all out, but I will ask the Senator, who is the chairman of the committee, is it true you are having trouble convincing people, or are we having trouble convincing people that having Wachovia Bank buy a sewer system in Germany for the purpose of reducing their U.S. income tax burden is a bad idea?

If the Senator from New Hampshire wants to talk about where we would get some additional revenues, maybe we could start now a dollar at a time. Let's take at least the first dollar and decide that U.S. companies that buy and immediately lease back sewer systems, streetcars, or city halls in foreign countries, or in this country for that matter, for the purpose of depreciating an asset that otherwise wouldn't be depreciable, for the purpose of reducing their U.S. income taxes and agree that is a bad idea. Let's shut it down. Let's decide today, on Tuesday, that is over. Can we at least agree on that piece? If so, my colleague Senator CONRAD has us on the road to at least beginning piece by piece to putting the system together to get the revenue we need. This is not about raising taxes, it is about asking those who ought to be paying taxes to start paying them.

I have been on the floor talking a lot. In fact, the chart my colleague is putting up now—and David Evans, who is a very enterprising reporter from Bloomberg put this story together—states that 12,748 companies exist in that one five-story building on a quiet little street called Church Street in the Cayman Islands. They are not in that building, of course. It is a legal fiction to allow them to reduce their U.S. tax burden.

I ask my colleague Senator CONRAD, are we having a hard time convincing our colleagues of these simple baby steps we ought to be taking to get the revenue people ought to be paying without allowing them to depreciate foreign sewer systems, for gosh sakes?

Mr. CONRAD. Madam President, I will tell my colleague that I have a picture of a foreign sewer system that was handled in precisely that way. U.S. investors bought a foreign sewer system and depreciated that on their books in the United States for the purpose of reducing their taxes in the United States, and then they leased it back to the foreign government that built it in the first place. Look, here is the building in the Cayman Islands, home to the 12,748 companies.

Here is the work of another committee of the Congress that points out we are losing $100 billion a year in that kind of scam. Our country is losing $100 billion a year. Our friends on the other side of the aisle will say, oh, there is nothing we can do about it. Sure, there is something we can do about it, if we have the brains, the heart, and the courage. That is Wizard of Oz.

Mr. DORGAN. Madam President, if the Senator will yield for one additional question.

What I want to do is come tomorrow to the floor and spend a little time responding to what was offered today by the Senator from Iowa on deferral, transfer pricing, and a whole range of things on those tax issues. If I can arrange with my colleague to do that tomorrow, I also have a picture of several sewers, actually.

Mr. CONRAD. How is this one?

Mr. DORGAN. I don't have that picture, but I have several pictures of several sewers owned by American corporations, not because they are in the sewer business, not because they like sewers, not because they have some sort of attachment to sewers, but because they do not want to pay U.S. taxes, so they buy a sewer system and depreciate it. I also have pictures of streetcars and rail cars and a picture of a city's 9/11 emergency response system sold by the city to a private investor in order that the private investor could depreciate it and, therefore, reduce their taxes.

Now, whether it is the 9/11 emergency response system, sewer systems, or city hall—and I have pictures of city halls I will show tomorrow as well, that have been purchased and leased back—all of these are scams, and they ought to stop. No, they ought not stop gradually. That is not the way you stop this addiction. You shut it down, right now.

I understand there will be people coming to the floor of the Senate saying: You can't do that. You have to be competitive. That is such a load of nonsense. You don't have to be competitive in these kinds of escapes from the reality of having to pay taxes you rightfully owe on your income.

I say to my colleague Senator CONRAD that I wish to come tomorrow at a time we can conveniently arrange and talk about these issues of deferral, transfer pricing, and SILOs and LILOs and so on.

Mr. CONRAD. Maybe we need to spend the whole day tomorrow.

Mr. DORGAN. That would be fine, because I have a lot to say. If we can't take the first baby step in shutting down this sort of perversity, there is nothing more pernicious in the Tax Code, and nothing more perverse to common sense than this sort of nonsense. So I wish to come talk about it tomorrow. Perhaps we could get a majority in this Chamber to say, yes, you know what, people ought to pay their taxes, corporations ought to pay their taxes, and they ought not own foreign sewers in order to avoid paying U.S. taxes. It is very simple.

If someone on the other side would call that a tax increase, I would say it is actually increasing the tax paid by those who should have paid more, but that is a different kind of circumstance, isn't it? So I want to talk about that tomorrow, and I thank my colleague, Senator CONRAD. He is steeped in experience in these areas, and he is right. I think it is a wonderful opportunity, finally, because we don't have quite enough opportunity in some of the committees, to finally on the floor of the Senate begin exposing this.

This exposure is very important so the American people understand who is paying the taxes and who isn't. One of our primary responsibilities is to say to those who aren't, you apparently want all the benefits of being an American except the responsibility of paying your fair share of taxes to this country. Senator CONRAD says it should stop, and so do I, and I look forward to being back on the floor.

Mr. GREGG. Madam President, I am uncertain if he is the junior or senior Senator from North Dakota, but will he yield for a question?

Mr. DORGAN. Senator CONRAD has the time.

Mr. GREGG. Will the Senator from North Dakota allow me to ask a question of the Senator from North Dakota who just made a passionate statement?

Mr. CONRAD. I will be happy to yield for a question.

Mr. GREGG. Madam President, I wish to ask the Senator from North Dakota whether he supports an extension of the tax rates relative to capital gains, No. 1; relative to dividends, No. 2; relative to highest rate, No. 3; and relative to the rates regarding the death tax, or some modification of the death tax in years 2011 and 2012, No. 4.

Mr. DORGAN. Madam President, I say I don't do four-part questions. I will be glad to answer the first, however.

I happen to believe a tax code ought not penalize work and reward investment. I happen to believe those in this Chamber who have perverted the Tax Code that says if you work, you get penalized, because you pay taxes, but, by the way, if you don't work and get to clip coupons, if your income comes exclusively in dividends and capital gains, guess what, you are in luck because this Chamber thinks you don't have to pay taxes.

So, do I believe at some point we ought to recognize working people in this country and recognize they ought to be paying taxes in a fair way? Yes, I believe that strongly.

I observe, however, that the Senator from New Hampshire changed the subject. The subject, of course, was sewer systems, foreign streetcars, foreign city halls, and the sale of 9/11 emergency systems of an American city for the purpose of avoiding taxes by corporations that want to purchase them. That is a subject about which I wish to visit.

Mr. GREGG. Madam President, not only did I not change the subject, I went to the essence of the issue. I have heard the Senator from North Dakota many times on this floor rail against the tax cuts that were put in place that generated this economic recovery. He has railed against capital gains, dividends, and the highest rates. This budget, as it is presently structured, can only accomplish its goal of raising the largest tax increase in history if it significantly raises rates.

The representation was made here that the Senator from Iowa was somehow supportive of people who are inappropriately gaming the system. It is the opposite. His statement was all about how you address that, and how he has addressed that, and how he intends to continue addressing that. But he also was concise in his conclusion in saying that the most you can get from addressing that in a realistic sense is somewhere around $30 billion or $40 billion.

The head of the IRS, whom we also want to have all the resources he needs—in fact, in the budget last year we gave him all the resources he felt he needed in order to expand recovery from people who owed taxes and were not paying them—has said the most he is going to be able to get in a 5-year period is probably $30 billion.

So there is a huge issue of credibility here when there is a tax increase in revenues of $450 billion to $500 billion, half a trillion dollars over the President's number, and the only items that can be pointed to that you are going to cover that with are less than $70 billion, probably, or $80 billion. So you have $400 billion or $350 billion of new revenues that have to be generated somewhere. Ironically, that happens to be almost exactly the amount of increasing the rates to the levels that the Senator from North Dakota seems to want on income taxes, dividends, capital gains.

It does not pass the commonsense test of, when a party ran for reelection, got reelected—obviously, international affairs had a lot to do with it, but a lot of that campaign was based on the desire to repeal the tax cuts the President put in place, especially on income—and then comes to the floor of the Senate with a budget that raises taxes by an amount which is essentially equal to the raising of the income tax rates, it does not make sense to deny that the income tax rates are going to be the source for most of those revenues. Sure, we will get some money from the tax gap. Sure, we will get some money from a more aggressive approach on loopholes—which everyone wants to do but nowhere near the dollars needed in order to cover the obligations of this budget which assume the biggest tax increase in history, which clearly is going to come from raising rates.

I just find it unfortunate that people are not willing to say what is going on here. Why is the Senator from North Dakota—the junior Senator or senior Senator, I am not sure—Senator DORGAN, why isn't he willing to simply say: I am for raising these rates, and admit to it?

Mr. DORGAN. If the Senator will yield for a question?

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. GREGG. I am willing to yield for a question.

Mr. CONRAD. Is this on the time of Senator GREGG?

The PRESIDING OFFICER. No.

Mr. CONRAD. Would the Senator answer this question on your time?

Mr. GREGG. I certainly would, as long as the question is brief and concise.

Mr. DORGAN. Very brief. Senator KENNEDY is waiting. I would point out, given all this revenue consternation, I know where there is $104 billion. That would have been the tax paid on that amount that was repatriated that my colleague and some of the others offered a 5.25 percent income tax rate to recently. They said to the biggest enterprises in the country: If you have done business overseas, you bring that money back, and we will give you a 5.25 income tax rate. No other American gets to pay that low a tax rate. But the result was about a $104 billion giveaway.

So I know where there is some revenue perhaps. I wish we had been quite as concerned about revenue back then when it was given to the largest companies in the country.

Mr. GREGG. I reclaim my time because that obviously was not a question. It was a rhetorical question at best, probably not even that.

Senator KENNEDY has been very patient. I hope the Senator from Massachusetts would note that I was the only one who, on a number of times, prefaced my remarks saying I wished to hear from the Senator from Massachusetts and did not just take his time willy-nilly. I think we should turn to the Senator from Massachusetts.

Mr. CONRAD. How much time does the Senator from Massachusetts need?

Mr. KENNEDY. Fifteen minutes?

Mr. CONRAD. I only have 4 minutes left on our time.

Mr. GREGG. How much time do we have left on our side?

The PRESIDING OFFICER. The Senator from New Hampshire has 14½ minutes and the Senator from North Dakota has 2½ minutes.

Mr. CONRAD. I ask unanimous consent to extend for 15 minutes on each side, so 30 minutes total, and 15 minutes given to the Senator from Massachusetts, who has been extraordinarily patient.

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

Mr. KENNEDY. Madam President, I thank the two leaders for their kindness and their consideration, permitting me to speak on the budget. I welcome the opportunity to participate in the opening discussion of this debate, particularly as it centers around national priorities. I do think, quite frankly, we rarely see the contrast so clearly as in the recent debate and discussion on the Senate floor between those who want additional tax reductions for wealthy and powerful groups and those who are really interested in the agenda and the priorities of working families and middle- income families who are primarily concerned about the future of their children, health care for their children, and education for their children.

Certainly they are concerned about veterans; all of us are. I commend those who have spoken very eloquently this afternoon about how this budget reflects our priority to address the needs of our veterans.

I would like to take a few moments—and will the Chair let me know when I have 5 minutes left, please, Madam President—to talk about the priorities that have been included in this budget that Senator CONRAD has mentioned, and why it really ought to gain the support of the majority of the American people. This really represents the people's agenda and the people's priorities.

There is a very important commitment in this budget to the children of this Nation, in terms of their education and in terms of their health. I will speak this evening on those two issues. There are other matters of the budget which are important, and perhaps I will speak about those at another time.

I take pride that an ancestor of our State, John Adams, was the one who identified the importance of education for this Nation. He did so in 1780, which was the year the Massachusetts Constitution was passed. It was passed 7 years prior to the Federal Constitution. In that document is the most elaborate commitment of any constitution in this country. But just about every other State has, basically, copied language similar to the language in the Massachusetts Constitution—that commits the people in that State and in this country to quality education for young people.

We have seen the progress that has been made since that time. In 1837, Horace Mann campaigned relentlessly for the support and improvement of public schools. He reminded us that a free and public education was vital to our future. At the turn of the last century, we expanded from the early grades and founded public high schools to enable the nation to move forward. We have seen the extraordinary progress that was made with the creation of the land grant colleges. In the height of the Civil War, Abraham Lincoln signed the legislation into law and made a commitment on behalf of this Nation to the education of the children of our country. Time and again, when America was faced with challenges, we responded by strengthening education.

We did it once again when the Russians sparked the Space Age with the Sputnik launch. We came together as a nation and doubled the education budget.

There are those on the other side who say: You can throw money at an issue, and it doesn't solve all the problems—and that is true. But a clear indication of national priorities is whether we are going to invest in education. There are many reasons to do it. Obviously ''for the benefit of the child'' is the best reason. Obviously ''so we will have a well-educated, democratic society'' is important. Obviously, ''so we can have well-educated individuals to compete in a global economy.'' And, obviously, ''because we need well-trained, intelligent individuals to serve in the Armed Forces of our country.'' For all those reasons and more we need strong investment in education.

We are facing a global challenge around the world. It is fair to ask: What has this budget done with regard to education?

All you have to do is to look at the contrast between this budget and what has happened over the period of recent years under Republican control. This column on the left of this chart is the 5-year cumulative increase in funding for K–12 programs, specifically for No Child Left Behind and the Individuals with Disabilities Education Act, from 2003 to 2007—the five-year increase is $4.7 billion.

Over here, we see this year's Democratic budget—a $3.8 billion increase in one year alone. This is a commitment to education, and it is extremely important. It is essential.

We hear a great deal about the commitment we made to our children in the No Child Left Behind Act. But the Administration and Republican Leadership in Congress have failed to keep their promises about funding the law, and today we are leaving 3.7 million children behind.

I have said many times that when we passed Social Security, we enrolled everyone who was eligible in the Social Security system. In Medicare, we said we wanted to cover all the elderly, and today, everyone who is eligible is included in Medicare. So when we said No Child Left Behind, I thought we meant that no child was going to be left out and left behind. But the reality is that 3.7 million children are being left behind today. The challenges that schools are facing are real, and the idea that we are leaving these children behind is completely unacceptable.

There is a simple comparison. If this had been our approach when President Kennedy said we were going to go to the Moon, we would have spent the money to get our rockets together and we would have sent people to the Moon. They would have landed on the Moon and gotten halfway back, and then we would have pulled the funding. Today, 3.7 million children are not receiving the resources we promised.

If you look at other indicators like what's happened with rising college costs and stagnant student aid, you see the same picture. If you look at the gap between the increased cost of attendance at a four-year public college and the maximum Pell grant, you see that the gap has gone up and up and up as the Pell Grant has remained effectively flat. Every middle-income family understands the explosion of the costs of college and the 5.3 million children who depend on the Pell grant have been faced with this crisis. But earlier this year, under the joint funding resolution, Democrats increased the Pell

grant for the first time since 2003. With this budget, we're going to build on that, and for the first time in the last 5 years, we are going to extend a helping hand to children who are talented, who have been accepted into schools and colleges of this country. Each year, 400,000 college ready students do not go on to a four-year college. Families and students need this kind of help and assistance to make college a reality.

This budget is about children. It is about education. It is about national security. It is about our economy, and it is about our ability to compete in a global economy.

This budget will allow us to increase the maximum Pell grant to at least $4,600. It will also help us do even more for struggling students and families. We are going to continue our work to cut the student loan interest rates. We are going to cap student loan payments at 15 percent of discretionary income. And we are going to have a loan forgiveness program for individuals in public sector jobs. We want the middle class and working families to know: If you are concerned about the costs of your children's education, this budget is going to provide help and assistance to you. Make no mistake about it.

On another issue, health care, we have also made enormous progress through the years. Probably the most dramatic, I believe, was the progress made under President Lincoln at the time that he made that magnificent speech, saying we cannot lose sight of our responsibilities to the widows and the orphans of the Civil War.

And we began the process.

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. KENNEDY. So we started the process toward taking care of those who have served in our country. Then we saw the need that we had after the Second World War. We said we are not going to have a whole generation that brought us out of the Depression and fought in the war live, effectively, without any kind of health care coverage. We had passed Social Security in the 1930s. Then we passed the Medicare program in the 1960s.

In 1965, we started the community health care centers program. Today there are more than 16 million Americans who get their health care through that extraordinary program. In 1997, this body, in a bipartisan way, passed the CHIP program. We have seen the remarkable growth, in terms of covering children. This is about children of working families.

If you go up to 300 percent of poverty, you are talking with a family of three, about $49,800 a year. That is not an enormous income. For families with even one or two children, the cost of health insurance is virtually out of sight. In Massachusetts the children of these families would be covered by the CHIP program.

This program has been a remarkable success—some 6 million children have been included, but we know there are 9 million who are not.

Under the President's budget, these red States on the map are the States that would effectively have to drop children in 2007. Down here in Georgia, even my State of Massachusetts and the State of Maine.

If we continue like that in 2008, look at the growth of the number of States that would be dropping hundreds of thousands of children. If you continue with the Republican budget, you virtually emaciate that program in terms of covering children.

But under this budget that is different. We are committed to making sure that the children of this country who don't have health coverage will be able to benefit. In this budget, $50 billion over 5 years is committed to making sure that all of the children of working families are going to be able to get the health care coverage they need. This means they are going to listen and learn when they go to school because they will have had the health care that they need.

This means they are going to grow up strong and healthy. This is our commitment to the children of this Nation. It is our commitment to the children of working families. We say this is a priority in this budget. We say children are a priority, and we are committed to making sure that the young children of this Nation are going to grow up strong and healthy, and we commit to them that they are going to have the educational opportunity they need to be successful.

That is the priority.

Anybody who watched this debate this afternoon would say one side has been talking about tax loopholes, talking about how this budget is going to increase their taxes. We are talking about a responsible budget that is going to have children as its priority. I hope when the time comes that it will have the kind of broad support that it deserves.

I withhold the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, before I yield to the Senator from Colorado, I wanted to talk about the education funding because it is important for us to understand that this President increased the funding for education more than any other in history as a percentage and in total numbers: a dramatic increase in funding for education; IDEA is up dramatically; No Child Left Behind funding, which was originally title I funds prior to our passing No Child Left Behind, up dramatically in the budget he sent up.

He increased those accounts one more time by $1 billion for No Child Left Behind. Granted, we cannot and do not intend, and do not think it is good, to outbid Senator KENNEDY on issues of spending. We are not even going to try. But the fact is, we have made a very substantial commitment to education funding under this Presidency and a substantial commitment to education generally.

I want to talk about Pell grants because that is another area where we have done dramatic work. Senator KENNEDY says Pell grants have held steady. Well, actually they have gone up. In fact, because the President put in place a program last year, which we paid for, we now have Pell grants, if you qualify for the Smart Program, which deals with math and science education, and you pursue those courses that we think are important to our culture and we do not have enough people pursuing, you can get Pell grants literally jumping up to $8,000 a year, a significant expansion of the Pell Grant Program.

We have heard in the press that we cut funds—

Mr. KENNEDY. Will the Senator yield on this point?

Mr. GREGG. I probably do not have the time. Is it a quick question?

Mr. KENNEDY. Two quick questions, but I will settle for one. Is it not a fact that those who are eligible under that program are less than 10 percent of all of the Pell recipients?

Mr. GREGG. That is correct.

Mr. KENNEDY. I thank the Senator.

Mr. GREGG. The point being, if people pursue courses which we think are important in this country, we basically double the amount of the Pell grant they will get, which is a fairly significant commitment to those individuals.

We have increased the Pell Grant Programs generally also. But it started to make sense to focus dramatic increases in Pell grants on people and on disciplines that we think are important to our culture.

The second point is that we have heard in the press and we have heard from the other side this idea that we cut education funding by $12 billion in the reconciliation bill 2 years ago. That is a total misstatement. That is an outright—well, it is so incredible, it rises to the ''L'' word. It truly is dishonest to make that statement.

What we did was we reduced lenders' benefits under the student loan program by almost $20 billion, and then we took a big chunk of that money and put it back into student aid. So we actually increased student aid by approximately $9 billion in that reconciliation proposal. It was a significant shift of funds from lenders to kids who are going to school.

When I read in newspapers such as the Wall Street Journal today, a reporter represented, which is basically the dialogue, the line of the Democratic National Committee that we cut student lending by $12 billion, it makes me angry. I oversaw that. I was not chairman of the committee. Senator ENZI was totally committed to student loans and oversaw this exercise.

What we did was the opposite. So the dishonesty of the Democratic National Committee in putting out that type of information, and then the incompetence of the Wall Street Journal reporter for picking it up and saying that we cut student loans by $12 billion is

absurd on its face. They wrote whatever the Democratic National Committee handed them as a cheat sheet.

We cut lenders' subsidies by $20 billion, put $9 billion into student loans.

I yield 15 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, I have been listening to this debate from my office. I tell you, I have to agree with the chairman of the Budget Committee. I joined him in voting against this budget. But generally this is what this budget does: we are back to the old spend-and-tax ways and increases in the debt.

This budget has an increase, over a $900 billion tax increase. We have a nondefense increase in spending of $146 billion. The President has already come in with his budget with a 50-percent increase in spending. Now on top of this, this budget provides $146 billion.

Then we look at the debt figures. We see that the debt is increasing by $2.2 trillion. This is unimaginable. If the tax increase goes into place—and that happens because there is no provision in here to make the tax cuts that were passed in the Republican Congress in 2001 and 2003 to make them permanent—by default these taxes are going to increase over $900 billion. That is going to be the largest tax increase in the history of this country.

I want to look at the $146 billion. I think we need to pull up a spendometer and talk a little bit about how much spending there is, if you are already starting at $146 billion—because you are $146 billion above what the President's budget proposal is—based on a $50 billion increase.

So in addition to that, we are seeing a tremendous growth in the deficit, increasing by $440 billion. We see mandatory spending growing unchecked by $411 billion, fiscal years 2008–2012. We spend more than $1 trillion of the Social Security surplus. Ultimately, what we end up with is a growth in the debt of over $2.2 trillion.

Now, we have heard those who are supporting this budget and justify it because they are going to tax the rich. I think we ought to take a look at who pays taxes in this country. You know the top 1 percent of the wealthy pay 37 percent of the taxes. The top 5 percent pay 57 percent of the taxes. So if you are going to raise taxes, the only place you can go is there.

If we look to the top 10 percent, there is another 10 on top of that. You have got 31 percent plus 37. We have 68 percent of the taxes that are paid by the top 11 percent of the taxpayers of this country. So we have a very progressive tax system.

The tax cuts that we put in place in 2003 really stimulated this economy. As a result of those tax cuts, there is more money available for local governments to help pay for their programs. There is more money available for the Federal Government. That is why it was so easy for the majority party to put together this budget—because of the large amount of revenues coming into the Federal Government.

I attribute that to the fact that we cut taxes for the working men and women of this country, primarily those who own their small business, by the way, who put in more than 40 hours a week. Many times they work 7 days a week to keep those small businesses operating, supporting their communities. That is where we really generate the revenue.

We are going to start talking about how we are going to tax them now so that they do not keep as much in their own pocket. The reality of that is going to be that we are going to depress our economic growth. We are talking about increasing taxes on corporations that do business all over the world. Well, they are in a competitive environment. They have to compete with other countries. We cannot constrict our economy to strictly American borders. We have to extend beyond that. If we really want to get our economy going, we are going to have to talk about trade. We are going to have to talk about doing business all over the world.

We cannot expect it to grow and constrict it to the borders of this country. That is what we are doing, in the tax policy that we have heard from the other side of the aisle.

The question always comes back to all the spending that we have in this bill, some $146 billion above the $50 billion increase that the President already put in place. Where are we going to get the money to do that? The only way that happens is when we do not act on putting those tax cuts in place that have served us so well to grow this economy. They talk about closing the tax gap.

We had testimony in committee, and they thought that the reasonable amount was $35 billion in collections as a reasonable expectation over 5 years. Yet on the other side, they insist it is going to be much more, regardless of what the IRS—the ones who would know—said in our Budget Committee hearings.

I think this is a budget that is going to create problems for us down the line. It is going to begin to create problems as soon as it is passed. It is going to create spending problems. It is going to create tax increases by default. We are going to see the debt continue to increase by $2.2 trillion.

Let's look and see how individuals are going to be impacted by this tax increase that will happen in this budget by default because we do not do anything to keep them from expiring in the outyears of this budget.

A family of four, earning $40,000 a year—that is if the husband and wife are both working and making $20,000 each—will face a tax increase of $2,052. And we have 113 million taxpayers who will see their taxes go up an average of $2,216.

Now, when we look at this a little further, we see that over 5 million individuals and families who have seen their income tax liabilities completely eliminated will now have to pay taxes. That is the new tax bracket that we have created to provide tax relief for many of those working families. So that is going to expire. When that expires, that is going to impact 5 million individuals and families who will again have to pay taxes that they were allowed to get by without paying so they could pay for their educational costs for their kids, so they could pay for health care, and so they could pay for the needs of the family—food and shelter.

We are not talking about individuals who are making a lot of money in this case. Forty-five million families with children will face an average increased tax of $2,864; that is the marriage penalty. Fifteen million elderly individuals will pay an average tax increase of $2,934. These are the people who are on retirement. Twenty-seven million small business owners will pay an average tax increase higher than any of the groups that I mentioned of $4,712. That is where our economic growth is generated.

If you want to see your economy grow like we did, you target the small business sector. Well, that is true in Colorado; that is true nationally. I think one of the things that stimulated growth of the small business economy more than anything else was the expense provisions that we put in place so that small business owners could write off over $100,000 a year, expense them out in one year. They took that money and they invested it. They invested it in equipment they needed. If they were a contractor, they went and bought a Bobcat and a pickup and got to work. If they were a farmer, they bought a new harvester and got to work. If they were a physician, they got an x ray and had more work to do. If they were a veterinarian, maybe they bought some lab equipment and had more work to do. So by targeting the small business sector, we generated all these jobs. It churned the economy.

I had an opportunity to visit with Dr. Greenspan, former chairman of the Fed. I said: One of the things that has not been talked about much is how the small businesses generated this economy. I think the expensing provisions we put in there had a lot to do with that. He said: I agree with you. I don't think that people really appreciate what has happened because of the tax cuts that were directed toward small business.

There are many important items that are not to be found in this particular legislation. There is no long-term entitlement reform. There is no permanent AMT relief, no permanent tax relief at all with the tax cuts that were put in place to stimulate the economy. There is no funding for ongoing war costs between 2009, no proposals on reducing mandatory spending or the debt.

People of Colorado have asked me: How is this likely to affect me? Let me talk a little bit about how this could affect taxpayers of the State of Colorado. In Colorado, the impact of repealing the Republican tax relief would be felt widely. For example, more than 1.6 million taxpayers Statewide who are benefiting from a new lower 10-percent bracket would now see their tax rates go up; 590,000 married couples would face higher tax rates because of an increase in the marriage penalty; 432,000 families with children would pay more taxes because the child tax credit would expire; 310,000 investors, including seniors, would pay more because of an increase in the tax rate on capital gains and dividends. Remember, seniors who have retired have a lot at stake when we talk about capital gains taxes and dividends because they have put their money many times in the stock market. They have put it in investments. As retired individuals, they are finding that they are beginning to pull that out. The consequences are that without that tax break, they would not have been able to save as much money toward their retirement.

To wrap this up, I wish to remind people I will be keeping a spending barometer here. We are at $146 billion already over what the President proposed. We are not off to a very good start on this budget. We are going to see it increase considerably before this week is over.

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

The PRESIDING OFFICER (Mr. MENENDEZ). The clerk will call the roll.

The assistant 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. GREGG. I yield the Senator such time as I may still have remaining.

The PRESIDING OFFICER. The Senator is recognized for up to 12 minutes.

Mr. SESSIONS. Mr. President, budgets are defining things. They tell the country what direction we would like to go, where we intend to take the country, what kind of policies on taxing and spending we have. There are not many ways to hide it. There are ways to attempt to hide it, but when one looks at budgets carefully and studies them, they can begin to see what the priorities are of the majority party, the party that has an obligation to present a budget, as the Republicans did for a number of years and now the Democrats do. It reveals something about their priorities, their direction, where they want to go.

I believe this Nation is a nation conceived in liberty. We believe in entrepreneurship. We believe in freedom. We believe in a smaller government and a more vibrant private sector. That is not like many of our European allies. They are high-tax, high-regulation, high-welfare states. We have many of those qualities and characteristics but not nearly so much as they. We made a conscious decision. That is not our heritage. That is not the way we go. I am proud to say our Nation has had a far greater growth rate consistently over the years than the Europeans. Our unemployment rate is well below the Europeans. They continue to struggle. They have government unions striking all the time. They are trying to make the government fix everything for them.

When the government does everything, then everything that is important is decided by a bunch of politicians. We are not capable of running this economy. We are not capable of running an automobile business, running a farm or any other kind of business. That is not what we are capable of doing. We let the private sector do those things and let them compete and let them see who can produce the best widget at the lowest price with the least defects. That is our heritage. I resist the idea that we can continue to increase regulations, increase taxes, increase spending and make the Government bigger and bigger and bigger and the individual smaller and smaller and smaller. Because when we take from one to give to the Government for the benefit of another, we diminish the freedom of the first. We strengthen the Government, and we diminish the moral autonomy of the person who received the benefit. This is a matter of deep importance philosophically for us. We ought to think it through at the beginning.

Where are we today? When President Bush took office—there is no need to rehash everything—the Nasdaq stock bubble had already burst. When he took office, the Nasdaq had lost half its value. When he took office, the last month of the calendar year, this country had negative growth in GDP. The first quarter President Bush inherited a negative growth GDP. He inherited from his predecessor an economy in serious trouble. There is no doubt about that. On top of that, we had 9/11, 9 months later. So the entire Nation was in a state of shock. He had to make some major decisions. Was he going to start a tax-and-spend jobs program to try to jump start the economy?

He made a commitment consistent with our American heritage to reduce taxes and to allow the private sector to recapture itself, restabilize itself and grow. It has worked to an extraordinary degree. It is something of which we should be proud. We have cut taxes and now revenue is beginning to surge.

We had the 2003 tax cuts, the 2001 tax cuts. In 2004, when the economy began to hit its stride, we had an increase in revenue to the Treasury of 5.5 percent. That is a pretty good number. But the next year, 2005, it hit a 14.6-percent increase in revenue. Then the next year it was almost 12 percent, 11.6. This year they are projecting, based on the first few months of the year, a 9.3-percent increase in revenue. What I am talking about is not statistics. It is not some survey. I am talking about actual dollars going into the Federal till.

Is anybody paying taxes if they are not making money? Are they voluntarily sending more money to Washington than they ought to send? No, they are not doing that. The economy is doing well. People are making money. They are working more. They are getting higher wages. They are doing more overtime. Corporations are making profits instead of having losses. They are paying taxes. When someone sells stock or an item, it has appreciated in value, and he pays capital gains on it. Those are the things that are working because we have the economy moving.

I believe President Bush made a historic, tough decision. We passed that first tax cut in this body by a tie vote. We had to bring in the Vice President to break the tie. That side over there that now has the majority opposed it with every strength in their being. The same was true with the next one in 2003.

I will offer a critical amendment on taxes as this debate goes along. I wish to continue the general trend of my remarks and the dangers that I fear are exhibited here. When we pass a budget, we pretend to pass a 5-year budget. We pass one every year. So what does that mean? If you pass a budget every year and every year you pass a new 5-year budget, it means the only budget year that counts is the one you pass that year. Our colleagues think that spending as a percentage of the gross domestic product might go down in future years. I hope it would. It should, based on the strength of our economy. What about the budget that counts? What about the budget that counts, the one that we are enacting as a part of this process for 2008?

I will show my colleagues what this budget does in terms of spending. In terms of spending, it is going up, actual spending over the last decade. This budget for 2008 before us today, and which we are being asked to ratify, has the highest percentage of GDP being captured by the Federal Government, by the Federal tax gendarmes of anything we have had in a decade. This budget, the one we are passing, the one that counts, ups it. There is no doubt about it. We can talk about future years, and we hope they will be better.

How much time remains?

The PRESIDING OFFICER. The Senator has 3½ minutes.

Mr. SESSIONS. I will close with one more point. A number of years ago, I understood this when the Republicans did what I considered a budget gimmick of several billion dollars. I began to count up how that added up. This year this budget has about $18 billion in spending over the President's budget, 2 billion of which is a gimmick. I believe it is going to amount to advance funding and will be spent. I believe, without dispute, it is $18 billion over the President's budget. Somebody

might say: This is a large economy. What is $18 billion? That is what I used to hear. I made up a chart that I call ''Every Billion Counts.'' A billion here, a billion there, pretty soon it is real money. Look at this chart.

They say: Well, we only jumped the President by $18 billion. This is in the discretionary accounts. This is the discretionary budget. They jump it just $18 billion in 2008. But what happens to that $18 billion? It goes into the baseline of our Government spending.

It goes into the baseline of our Government spending. So next year, if you try to remove that $18 billion, you know what they will say. They will descend on us in the halls, they will descend on us in this body and say: You are slashing the budget. You are cutting the budget. You can never cut the budget. So it goes into the baseline.

Let's say we just continue at that rate. Let's say next year, they just do another $18 billion. It is not $18 billion going to the debt to our children and grandchildren for them to carry throughout their lifetime; it is $36 billion because you have already got an $18 billion increase from the previous year and then have $18 billion on top of that. The next year, it is $36 billion plus $18 billion, which is $54 billion. The next year, it is $54 billion plus $18 billion, which is $72 billion. If you carry it out 10 years, it is $180 billion extra that year. Then, if you add all that up, what do you come up with? An increase in spending, on that pattern alone, of $986 billion. That, I would say to my colleagues, is the kind of indifference to a billion here and a billion there that gets us surging in our spending.

Finally, in our Budget Committee hearing, I asked the committee staff what the Consumer Price Index is, what the inflation rate is. They told us it is a little over 2 percent. Well, what do we know? We know this budget is going to increase spending in the nondefense discretionary account over 6 percent—three times the cost of living.

They say: Well, a big part of this surge in spending is the war. But we have had a war for the last 4 years, and spending has not gone up a whole lot this year as compared to the last couple years in terms of the war. But what we do know is the non-defense discretionary spending in a time of war ought to be at least contained somewhat. Shouldn't we at least try to keep it to the cost of living? Yet we are going to come in with a budget about three times that amount, maybe more than three times the cost of living in terms of a percentage increase in nondefense spending.

So those are some concerns I have. I believe we are on the road to taxing and spending. I think this budget demonstrates where our colleagues are heading in the Senate. I am going to resist it because we are moving to a point where we will not be able to—Mr. President, I ask unanimous consent to speak 1 additional minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I will talk more later, but perhaps the most important thing about this budget—with the points of order that are set in it and the fact that it is increasing spending rather than reducing spending—it is going to block the extension of extremely popular tax reductions that have been in place for a number of years. Then the taxes will go up on families. It will go up for children. For children, the tax credit will go down from $1,000 to $500. The capital gains rate—which actually raises revenues when it is cut—will go up. Other taxes will go back up, such as for dividend income.

That is not the right direction for America. This is not our heritage. We need to contain the growth of spending and not go back to higher taxes.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I be given 5 minutes to speak as in morning business and that the time to be charged on our side.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. No objection.

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

FIRING OF U.S. ATTORNEYS

Mr. SCHUMER. Mr. President, I rise to respond to the President's remarks he made about a half hour ago about the problems we are facing with the firing of eight U.S. attorneys.

The President had a press conference, basically, where he said he wanted to cooperate and he wanted the information to come out. That is good news because that is what we all want. This is such a serious issue. The integrity of the U.S. attorneys, the integrity of the Justice Department has been hurt, and we must restore it.

It is good to see the President understands we have to do something, we must restore integrity to what is the foundation of this country, the rule of law, without fear or favor. So when the President began to speak, I felt quite good. But when we learned of what he has proposed, it can only be called very disappointing because while he has made an offer that appears to be cooperative, when you look at it closely—you do not even have to look at it that closely—the cooperation is minimal.

Let me show you why. The President has said we could interview—his words, we could interview—some of his high-level staff. However, the interview will be held in private, not in public. There will be no oath or sworn testimony. There will not even be a transcript.

The interview will be as if it occurred in a darkened room, and then there is no record of what happened. If at these interviews the statement of, say, Karl Rove or Harriet Miers contradicts statements given before, there is nothing that can be done about it. We cannot get to the bottom, we cannot get to the truth. What is the objection to having a transcript if there is nothing to hide, nothing wrong with the transcript? What is the objection to an oath? If there is nothing to hide and everyone is telling the truth, there should be no objection to an oath. What is the objection to having this discussion in public? Because if we want to restore the integrity of the U.S. Attorney's Office and the Justice Department, that cannot be done by someone whispering to someone else in a back and darkened room. It must be done in public.

Any lawyer will tell you that the offer made by the President is not going to get the truth. No transcript, no oath, no public testimony—what are we hiding? The bottom line is, if the President wants the truth to come out, then he would have testimony given in a far more full and open way. It seems as if the President wants to appear to be cooperative but not really cooperate. So we will have to go back and come up with a better plan because this plan does not work.

The President has said he will give us memos, but the only memos we will get are memos we have already received, with only a few exceptions because the President has said any memos within the White House are off limits. If Aide A sends an e-mail to Counsel B, and it says, ''Let's fire U.S. Attorney C because they are doing an investigation we don't like, but find another justification, another reason,'' and then the counsel writes to the Justice Department, ''We are firing that U.S. attorney because they are not working hard enough on,'' say, ''immigration cases,'' we will have no way to get at the first memo, and the truth will not come out.

So, Mr. President, give us all the memos, not just some. Give us all the memos related to this issue, not just the ones that won't help us with the case.

Mr. President, I ask unanimous consent for another 3 minutes, charged against our side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SCHUMER. If we really want to get to the bottom of this issue, there is a much better way to do it—one without politics, one without partisanship, but one that gets at the truth—in public, under oath, with a transcript, and with all the memos being made public.

I think the President has an obligation to tell the American people why he is against a transcript, why he is against an oath, why he is against testimony in public. If our mutual goal is to get at the truth, there is no good justification to not allow those things.

There is precedent. It is not unusual for Presidential advisers to testify

under oath in public before congressional committees or subcommittees. Take President Bush's immediate predecessor, President Clinton. Advisers who held the very same positions that are now held by Karl Rove and Harriet Miers in their time, and their deputies, testified. Harold Ickes testified. Bruce Lindsey testified. John Podesta testified. Beth Nolan testified. Those are people who had the exact same positions as Karl Rove, Harriet Miers, and their aides. They testified under oath, in public, with a transcript. If it was good enough for President Clinton and previous Presidents and their aides, why isn't it good enough for this President? Why do we have to have a narrow, constricted standard that seems almost designed not to bring out the truth?

So the Judiciary Committee, under the leadership of Senator LEAHY, will follow this investigation where it leads. We have an obligation far above party, far above partisanship to our country and its system of justice to get to the bottom of this situation. We will not be deterred. We will continue to focus. And the truth will come out. We owe it to the U.S. attorneys who were dismissed for reasons that still have not adequately been explained, with their careers and reputations damaged. We owe it to all the other U.S. attorneys who are now under a cloud because of what has been done. We owe it to our system of justice.

Mr. President, please let us have a full, complete investigation, not a limited one almost designed so the truth does not come out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for up to 8 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I guess, listening to the comments of my distinguished colleague from New York, we know this is about an effort to find the truth and follow the facts wherever they may lead, and I guess we should all be satisfied that this has nothing to do with politics, nothing to do with the Democratic Senatorial Campaign Committee that he chairs, because he wants us to believe this is about getting the facts—although the President today offered to produce his former White House Counsel and his adviser, Ms. Miers and Mr. Rove, for an interview to provide information to the investigators, to the Senate Judiciary Committee. But we have just been told now that is unsatisfactory, that we will not be able to get to the truth.

Well, I am as interested as anyone is, as a member of the Senate Judiciary Committee, as to what the facts are. But let me tell you, while I have some question as to all the information this investigation might turn up, I am not in doubt about this: President Clinton fired 93 U.S. attorneys appointed by his predecessor, a Republican President, and that was not about politics. This President has replaced eight U.S. attorneys whom he himself appointed, and that, for some reason, is supposed to be all about politics, all about dirty pool. Well, it just does not stack up. The fact is, this President, just like President Clinton, could replace U.S. attorneys for no cause.

I think the real problem here—and I do agree it has been mishandled—is the suggestion that we somehow ought to be demanding in the public domain whether there are performance-related reasons why these particular U.S. attorneys were replaced that caused them to feel the necessity to defend their reputation in the public arena. Frankly, I do not think they should have to be put to that sort of debate. These distinguished lawyers ought to be able to move on in their careers with their reputations intact. But because of my colleague, the chairman of the Democratic Senatorial Campaign Committee, who is leading the charge in this effort, it, I believe, undermines what should be a legitimate inquiry into the facts.

So I don't think anybody should be under any illusion of what the goal is here. It is not to get the facts or else the Senator from New York would have accepted the offer and said: Sure, we would be glad to talk to the witnesses who have been subpoenaed and who will appear from the Department of Justice. We will be glad to hear what Mr. Rove and Ms. Miers have to say. We will be glad to look at the 3,000 pages of documents produced by the Department of Justice yesterday, and we would be glad to look at the other documents that are being proffered by the White House. Instead, he has already reached a verdict. He has already concluded there is foul play regardless of the facts and regardless of what this information will yield. I think we shouldn't be under any illusion that this is about politics. It is not about a search for the truth.

Frankly, I think this Congress and the Senate deserve better than that. We deserve the ability to conduct an inquiry to find out where the facts may lead without this conflict of interest the Senator from New York has. Senator SPECTER, the ranking member of the Senate Judiciary Committee, has pointed out that this calls into legitimate question the whole basis for this purported investigation, and while he didn't call on him to recuse himself, he did suggest—and I think he is exactly right—that it undermines the legitimacy of what should be an inquiry into the facts.

I think it is appropriate to point out to our colleagues that this sort of campaign by the chairman of the Democratic Senatorial Campaign Committee, who is using this incident to raise money on the Web site of the Democratic Senatorial Campaign Committee, of ethics complaints filed against colleagues is inappropriate and unworthy of this institution.

Mr. President, I yield the floor.

Ms. STABENOW. 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. 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, I wish to take this opportunity to discuss the matter I alluded to earlier that is a very real concern of mine, which is that the budget that is before us sets us on a direction we should not go. It is a major policy document. It states to the whole Nation how our Democratic colleagues, who now have the majority in the body and who passed this budget out of committee by a single vote majority or a party-line vote, as budgets have been over the last several years—that is not particularly unusual because there is a very real difference in how we approach taxing and spending in America between the parties that are represented in this body. It has been great to see Senator CONRAD and Senator GREGG work on these issues. They have done a great job of representing their principal points of view and they have shared their own ideas and battled it out with respect and collegiality. They are very capable leaders of our Budget Committee.

AMENDMENT NO. 466

I wish to talk about this subject, and I call up an amendment to S. Con. Res. 21 at this time, and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. DEMINT, Mr. GRAHAM, Mr. ENZI, and Mr. CRAPO, proposes an amendment numbered 466.

Mr. SESSIONS. Mr. President, 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:

(Purpose: To exclude the extension of tax relief provided in 2001 and 2003 from points of order provided in the resolution and other budget points of order)

At the end of title II, insert the following:

SEC. ___. EXCLUSION OF TAX RELIEF FROM POINTS OF ORDER.

Sections 201, 202, 203, and 209 of this resolution and sections 302, 311(a)(2)(B), and 313 of the Congressional Budget Act of 1974 shall not apply to a bill, joint resolution, amendment, motion, or conference report that would provide for the extension of the tax relief provided in the Economic Growth and Tax Relief Reconciliation Act of 2001, the Jobs and Growth Tax Relief Reconciliation Act of 2003, and sections 101 and 102 of the Tax Increase Prevention and Reconciliation Act of 2005.

Mr. SESSIONS. Mr. President, our colleagues tell us this budget does not

raise taxes, and in a sense that is a legitimate position for them to take, but in reality, I suggest it is not. I would note the budget we have before us now assumes—assumes, see—$916 billion in additional revenue over the next 5 years. Where do you get $916 billion? It is about a half a trillion more than the President assumed. What could generate $916 billion in additional revenue except a tax increase?

The revenue levels in this budget mirror those numbers prepared by the Congressional Budget Office as part of its budget baseline. The Congressional Budget Office's baseline assumes that President Bush's tax cuts will expire as scheduled under current law, resulting in $916 billion in tax increases. Why does CBO assume they will expire and will not be extended as we have for nearly a decade? Well, that is what accountants do. There is nothing in the law that requires them to be extended, so CBO makes an accounting decision that they assume they will not be extended. The lower rates will not be extended. That means the rates will immediately jump up in a series of important taxes that affect the middle class in America.

But Members of the Senate don't have to assume that. In fact, we ought to assume they are extended, because they are working. They are producing more revenue, economic growth, low unemployment. Alabama's unemployment, my home State, hit 3.3 percent last fall. Isn't that fabulous? We had the lowest drop in unemployment rate on a percentage basis of any State in the Nation in the last several years.

Simply put, the Democratic budget is raising taxes by $916 billion by deciding not to extend the existing tax cuts. Tax rates will then go up and they will receive more money. The $916 billion in tax increases would become the largest tax increase ever, dwarfing President Clinton's record $241 billion tax increase in 1993. But our colleagues don't want to admit that today. They didn't want to admit that in committee when we voted on it last week. They want to have it both ways, if you want to know the truth. They want to spend and not take credit for raising taxes. So now the Democrats say their budget includes a reserve fund that would somehow allow for extensions of existing tax credits without increases in taxes. But this reserve fund is a mere vapor. It is without any substance. It has no funding in it that would allow for tax cuts—it does not allow for the extension of these tax cuts that are in place now and have been in place for years. They would not be acceptable under this reserve fund because they would increase the deficit, of course. That is what CBO will say.

It does not contain any money to pay for the extension. In fact, the Joint Committee on Taxation scores all tax legislation statically, which I disagree with, but that is what they do. It nearly always overestimates the amount of lost revenue whenever you cut taxes, rather than scoring the cost to the Treasury dynamically, which would recognize that many tax cuts actually increase growth and taxable activity, and thus increase Federal revenue. Good tax reductions will seldom fully pay for the full cost they incur in the short run, but usually they do help the economy do better than otherwise would be the case, and bring in more revenues. So it is not a full dollar-for-dollar cost like CBO scores. Thus, spending would have to be reduced substantially to allow under some pay-go idea any tax relief, including even extending the existing tax rates.

Let me ask: When did our colleagues ever execute any spending reductions? They have talked about it. They attacked President Bush mercilessly for spending, spending, spending, they said. President Bush was a reckless spender. He caused all this great deficit. He inherited an economy sinking into recession. He inherited a war and a 9/11 attack. He had to work from those facts and work out of those facts. So they have attacked him mercilessly for his tax reduction policies, which I noted a little earlier increased revenues significantly in recent years.

But I will say this: Under the plan of this budget, under the points of order, one cannot continue those tax reductions without reducing spending the amount that CBO says they cost the Treasury. Now, how are we going to do that? In fact, I will ask, when have our Democratic colleagues ever proposed reducing spending? Look at this budget that is presented this year. It contains virtually no spending cuts, $18 billion in discretionary spending increases, and not one dime saved in the entitlement program. No reform whatsoever in the massive entitlements which now make up over 60 percent of spending in this Government.

Our colleagues are not facing up to that. Thus, I would say to my colleagues with confidence that the plan is clear, their tactics are chosen, and they will say they are not for raising taxes today by this budget. They say this budget does not raise taxes. But I say clearly that is only half true; not much true at all. Because this budget assumes—''assumes'' $916 billion in new revenue, new tax revenue. It assumes we are going to receive $916 billion in new revenue, and where can we figure that? Well, those are the numbers that come from CBO's estimate, that is the Congressional Budget Office which estimates these things—that is what CBO estimates will occur if the existing tax rates are not extended, but allowed to jump back up again to a higher rate.

Second, they have created four new budget points of order against extending the current tax rates. This means that extending low tax rates will require not 50 votes but 60 votes, a supermajority to do that. As I noted when we passed these tax cuts in 2001 and 2003, the votes were razor thin. Now that we have a Democratic majority—not only that, now they have changed the vote total necessary to extend these tax cuts to 60. How are we going to get 60 votes? Well, under these tactics and under the budget points of order fine print contained in the budget, these lower tax rates that are in existence today cannot be extended without ''paying for'' them. How do you pay for them? By cutting spending by the amount CBO scores the loss in revenue. This means reducing spending. The thought that our Democratic majority plans to reduce spending, even though they talked about it this fall in the campaign like they had an intention to do so, the thought that they would have plans to actually contain waste and fraud and reduce spending is really to step through the looking glass, I have to tell you.

How can I say that? Oh, you are just being critical, SESSIONS. You are just being critical. Let's look at the budget to see what it says. The budget completely ignores President Bush's request to terminate or reduce funding for 141 programs that would save $12 billion in 2008 alone. It doesn't touch any of those programs.

Here is the Chief Executive of the Government of the United States. He recognizes that some of the programs simply don't work well. Out of the 1,000 in existence, he recommended a modest 141 be substantially reduced or terminated. It would save $12 billion in 1 year. Over 5 years, that is $60 billion. What do we see in this budget? Nothing. Zero.

What about the entitlement programs? We are now at $1.5 trillion, $1.6 trillion in entitlements, which is about $900-some-odd billion in discretionary spending. The biggest amount of the budget now is in entitlement, or mandatory spending. We all know that. Did our colleagues propose any steps to contain the growth at over 6 percent a year automatically of mandatory entitlement spending? No. Zero. No cuts in that. No reductions.

Well, there was a little reduction, but they used that to go around and spend it on some other entitlement program. So the net was no reduction in the growth of entitlements, not one step toward making the entitlement programs more solid.

What else? We have to keep this between us all. It is a little bit of a secret. But let me tell you what the budget does. It doesn't cut spending. This budget increases spending by $18 billion in the discretionary account above what President Bush asked for, the man who was being accused by Democratic candidates last year of being a reckless spender. It increases spending.

So you tell me, colleagues, what we are dealing with. I would suggest that elections have consequences; that despite protestations of frugality and criticisms of Bush spending, our Democratic friends have produced a budget that will result in a $916 billion tax increase and $986 billion spending increase, just as I pointed out, with the

$18 billion spending increase over President Bush's proposals, as I mentioned earlier. It adds up over a period of time, goes into the baseline, and surges spending. That is why you have to have restraint and show toughness and responsibility. I will just say that the leopard has not changed its spots.

When we look at it, as a budget, what does it do to our sustained effort to keep our economy vibrant, keep our taxes low, and the growth going and reducing unemployment? I submit that what we have done in the budget is that we have loosed forces that inevitably will put us at a point in time down the road, 1, 2, 3 years, when these tax extensions can't even be carried out. When they can't be extended anymore, these lower tax rates are going to have to go up because we are not going to have a cut in spending. My colleagues are not going to cut spending. They are going to increase spending. They are not going to cut spending.

How are we going to pay for these tax cuts? How can we pay to extend the existing rates? They are going to continue spending. What is going to happen is the tax man is going to get deeper and deeper into the pockets of working American citizens. It includes the marriage penalty, it includes the dividend tax, the capital gains tax, and the child tax credit, and others. So that is the big deal we are dealing with.

I started thinking about this, and I decided what this is, in my own little mind. The way I figure it out, here is the Budget Committee, our Democratic Budget Committee. They passed a budget. The budget, in my mind, amounts to a torpedo heading toward our vibrant, free economy. Our Democratic colleagues say: We haven't sunk the ship. We haven't hit the ship. But the torpedo has already been loosed. It is going to hit the ship because that is what the budget does.

Anyway, I just tell you that the mechanism is at work, and I don't know how we can stop it if we pass this budget. I do have a solution to it, however, and I will talk about that in just a minute.

This is not an academic debate. We are talking about real dollars for real Americans if these tax cuts expire, the lower rates that we have today, and they go back up. The lowest income families in America who pay taxes, those earning less than $15,000 per year, whose tax rates are covered by this temporary extension, will see their tax rates increase 33 percent. I think the $1,000 current per-child tax credit is one of the best things this Congress ever did, and I campaigned on it in 1994. The $500-per-child credit worked so good and was so popular that we added another $500 per child as part of the budget reconciliation process. That is coming to an end. It needs to be extended. So it is going to drop from $1,000 to $500.

The standard deduction for married couples will be cut by $1,700 per year. That is $140 a month for a family. 45 million working families with two children, if those tax reductions are not extended, will pay $3,000 more in taxes per year, which is equivalent to a 5-percent pay cut. And 15 million seniors will see their taxes increase. This is reality, and I am not going to go quietly on it. We need to fight this with all the strength that we have.

The four new points of order that are in this budget make it almost impossible to extend the existing tax cuts, and they are the trouble here. We need to confront those. I have offered an amendment that will deal with it, and I called it up on the floor just a minute ago, but let me mention the four points of order that are included in this budget that make it dead certain, if we continue with those points of order, that we are not going to be able to maintain the current tax rates and that we will see a substantial tax increase on all Americans.

The so-called pay-go rule, which states in part that the Senate cannot consider any revenue legislation that would increase the on-budget deficit in the current fiscal or budget year, the five fiscal years following the current fiscal year, or the 5 years after that—that is the pay-go rule. Basically, it means you either have to raise taxes to pay for tax extensions or you have to cut spending, and we are not likely to do the latter.

No. 2, a point of order against any legislation that increases long-term deficits.

Well, Joint Tax has already scored these tax reductions as costing the Treasury money. Even though money to the Treasury is going up after we reduce taxes, they scored it as costing the Treasury. Therefore, that point of order would be sustained.

What does a point of order mean? It means that you can object to extending one of these tax cuts, and it would not take a 50-vote majority to extend the tax cut, or 51. It would take 60, a supermajority, because we create a point of order that allows for a larger vote to be required.

No. 3, there is the so-called save-Social-Security-first point of order. This point of order prevents any new tax relief or extension of existing tax relief that would worsen the budget deficit until the President has submitted and the Congress has enacted a bill that would ensure the long-term solvency of Social Security.

The President tried to do that a couple of years ago. He received not a single vote of support in this body. They wouldn't even discuss it. They said it was dead on arrival. Senator GREGG asked that we have in this budget some plans to begin to reform our entitlement programs, including Social Security. What did our colleagues do in the budget? Zero. Now they are going to say: You can't extend your tax cuts, you can't extend the current lower rates of taxes until you fix Social Security. Not only that, it says until the President has submitted, and the Congress has enacted, a bill to fix Social Security.

I certainly think we should do that, but I have to tell you, in my view, I think that is unlikely to occur no matter who is President, no matter how this Congress is made up. We need to do it, and I support it, and I am disappointed we haven't taken any steps whatsoever in this budget to get there.

Finally, there is a point of order against any reconciliation action that would increase the deficit. Reconciliation has been the mechanism that Republicans have used to provide tax relief to the American people. That is how we got it through, by a 50-vote majority, as part of the budget reconciliation process. These were narrow votes. We barely got 51 votes. Under this proposal, under this budget, it is going to require 60 votes.

So if this budget goes through, the four points of order will practically guarantee that all of President Bush's tax cuts will expire. Out the window will go the marriage penalty relief, this penalty that we impose on people who marry—how dumb is that, to tax marriage? That is not a smart thing for the Nation to do. We eliminated most of that, but that will go out the window if we can't extend that tax reduction, along with the $1,000-per-child tax credit, the adoption tax credit, and the estate tax repeal, along with the capital gains reduction.

When we cut capital gains taxes, we didn't lose $5 billion in revenue as CBO said; revenues went up $133 billion.

It also will eliminate the dividend tax deduction. So the 10-percent tax bracket will disappear and marginal rates will increase.

So each of these points of order require 60 votes, and it means that we are facing a problem of a serious nature. We will be drifting more toward the social European model of higher taxes, higher spending, and higher regulation. I do not believe that is what the American people want.

I know there is an idea that through better enforcement against tax fraud we can make up some of this money and that we will increase tax revenue by $100 billion. I wish that could be done. I will support reasonable steps and fair steps to enhance enforcement of our tax laws. But I have to tell you, I met last week with a group of county commissioners from my State, and their No. 1 complaint was that there is some sort of Federal law that has been passed to make them withhold taxes when they pay anybody they deal with so we can close some loophole. And they contend, I don't know how correctly, but they contend it costs more to effectuate the Government's plan than it saves the Government in taxes.

The IRS Commissioner, however, testified before Congress that only $35 billion could be expected to be saved through enhanced enforcement over 5 years.

I am a former Federal prosecutor, a U.S. attorney. I prosecuted a number of

tax fraud cases. I try to pay my taxes. I do the best I can, and I tell you, I think most Americans do. When somebody cheats, they need to be chased down and they need to be prosecuted. It is not right for a rich person to cheat on his taxes while the average Joe is working hard and paying his taxes. So I support that. I am just telling you, there is not a pot of gold out there, as much as we would like to believe there is.

Our colleagues, in writing their budget, just assumed we would get it. They made their budget balance by assuming that we would bring in $100 billion out of tax enforcement. It begins to look like smoke and mirrors, really. The Commissioner says $35 billion is the most we can get. Senator GRASSLEY, former chairman of the Finance Committee, says we can't get that much money. It is not as easy as people say.

To prevent the largest tax increase in history from occurring, just from not having our existing tax rates extended, I am offering an amendment today that would not only exclude any extension of the expiring tax relief from those four new budget points of order but any budget point of order that would threaten that. If my amendment is agreed to, it would therefore take 50 votes to extend the President's current tax breaks that we have passed here in the body and not 60. If we do not do that, the tax collector is going to be jumping back into your pocket. He is going to be taking a lot bigger chunk out of what you make every week. We have to look at the realities of it.

I would say once again, the way this budget is constructed, based on the increased spending our Democratic colleagues propose, we have through this budget loosed a torpedo. How long it takes to hit the ship I don't know—1, 2, 3 years—but it is on the way and it is going to get there and it is inevitable. The bullet has already been launched.

I thank my colleagues on the Budget Committee who worked hard—Senator CONRAD and Senator JUDD GREGG. They are both extremely capable. These arguments I am making deal a great deal with philosophy and direction, how we see our Government, how big we want it to be, how much we want it to take from the private sector and the wealth that great private sector generates—how much of it we want it to take. I am very troubled that we are headed down the wrong road, that we are going to increase taxes on middle America, on corporate America, and the net result will be this surging economy may be damaged and, in the long run, we may not receive any tax revenue at all.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Senator from Alabama. Senator SESSIONS is a constructive member of the Budget Committee. He and I have many disagreements. We have spirited debates. But I have high regard for the Senator and have enjoyed his service on the Budget Committee. He has been, as I said, a very constructive member there.

Let me say I disagree with some of the conclusions he has reached. I wish to say to the Senator, I believe that the revenue objectives we have set in this budget resolution are entirely achievable with no tax increase. I would say to the Senator, the President, when he put out his budget, said it would raise $14.8 trillion. My budget says $15 trillion. That is a difference of 1.2 percent, and I believe that can be accomplished by going after tax havens, tax gaps, tax scams that are occurring. I do not think it is that difficult to do.

With that said, I very strongly resist the amendment of the Senator from Alabama to remove points of order against additional spending or additional tax cuts. In this part of it, the Senator is talking about additional tax cuts. That guts pay-go. A central part of the new budget discipline being proposed in this budget resolution is to reassert pay-go. Pay-go says simply this: New mandatory spending and tax cuts must be offset or get 60 votes.

Mr. SESSIONS. Will the Senator yield briefly for a question?

Mr. CONRAD. Yes, I am always happy to yield to the Senator.

Mr. SESSIONS. I don't think I made it clear, and I think maybe the Senator misspoke because I may have earlier. This eliminating the point of order would only be eliminating points of order that are related—that could be raised against existing tax relief. Not any new tax cuts. These points of order—I did not seek to change it in that regard.

Mr. CONRAD. I appreciate that. My argument still holds because the way pay-go works, because the existing tax cuts are sunset under current law, to extend them, costs money. It has to come from somewhere. Pay-go says you have to pay for it. That is what we are seeking to do. The amendment of the Senator would gut that attempt.

What we are saying is to extend the current tax cuts, you have to pay for it. If you want new mandatory spending, you have to pay for it. Let me indicate very quickly, under the current GOP pay-go rule, the Republican pay-go rule, it exempts all tax cuts and mandatory increases that are assumed in any budget resolution, no matter how much they increase the deficits.

Our pay-go rule says all mandatory spending and tax cuts that increase deficits must be paid for or require 60 votes.

That is a budget discipline that worked very well in the 1990s and we need to restore it. One of the reasons we have this, when we had strong pay-go in effect, here is what happened to the deficits. Each and every year they were reduced until we actually went into surplus and even, for 2 years, we stopped using Social Security money to pay bills around here. Then the weakened pay-go rule went into effect right here and look what happened: Right back in the deficit ditch big time, record deficits, record increases in debt. That is what we are trying to avoid with these points of order, to make it more difficult around here to spend money on new mandatory programs, to have more tax cuts, new tax cuts. The amendment of the Senator would gut it.

Senator GREGG said this, in 2002:

> As a practical matter you can get 60 votes on the floor of the Senate fairly quickly for most things that make sense.

Senator GREGG was absolutely right back in 2002. But he had other things to say as well. Back in 2002 he said this:

> The second budget discipline, which is pay-go, essentially says if you are going to add a new entitlement program or you are going to cut taxes during a period, especially of deficits, you must offset that event so that it becomes a budget-neutral event that also lapses.

He went on to say this:

> If we do not do this, if we do not put back in place caps and pay-go mechanisms, we will have no budget discipline in this Congress and, as a result, we will dramatically aggravate the deficit which, of course, impacts a lot of important issues but especially impacts Social Security.

Senator GREGG was absolutely right about that. That is why I think adopting the amendment of the Senator from Alabama would be a serious mistake. Does the Senator from Michigan request time to respond?

Ms. STABENOW. Yes.

Mr. CONRAD. I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, the comment I have, when we look at what the Senator from Alabama is talking about, he is basically saying that the tax cuts that were passed, first of all, were a good idea for most Americans and that he wants to make it as difficult as possible to change that. So when we look at what happened this last year, if you have more than $1 million that you earned in some way—unearned income or earned income—more than $1 million, you received $118,477 from the President's tax cuts last year. So what this amendment would do is say basically that they like this ratio. The less you made last year, the less you got. In fact, less than $100,000 in income, a family making less than $100,000 got $692. If you were willing to run that out even further, you had a lot of folks who maybe got $30, $40, $50 from this tax cut. So this locks in this kind of a tax cut.

We don't think this is fair. This budget resolution changes the way we look at tax cuts going forward and basically says we want tax cuts going to middle-class Americans. We want tax cuts going to the majority of Americans who are working hard every day, worried about their kids, who want to be able to send them to college, want to be able to have health care for them, and want a job, a good-paying job in America. These are the folks we are focusing on in this budget.

There is no question about it. This budget resolution is a new direction. It is a new day. It is a new set of values and priorities. The idea of saying, as this amendment does, that we should make it harder to change this, harder to rearrange things here or to maybe move some of those dollars over into making sure kids can go to college or making sure they have health care or their folks have health care or making sure we keep our promises to our veterans—those are the priorities in our budget.

Essentially, this amendment would say, if we need to address our veterans through adding dollars to make sure they have the health care they need, if we need to do more as we investigate and see what is unfolding with Walter Reed and other parts of the VA system and so on, that it would take more votes, it would take 60 votes to do something that would help our veterans but it would only take 50 votes to be able to continue this kind of a tax cut, this kind of a structure.

We reject that. We reject that set of values and priorities. They have been in place for 6 years, and I believe the American people have rejected those priorities with the changes in majority and the change in leadership that was made and that has begun as of January. What we have is a different approach.

First of all, as our distinguished budget chairman has said, we do want to say for new spending—whether it is tax cuts or other kinds of spending—we do want, overall, to make it a little tougher by having a 60-vote requirement because we want to make sure we are paying attention to lowering the deficit and moving in the other direction, to stop this spending using Social Security that has been going on for years and years.

But also in our budget, within that context, we have changed the priorities on the spending. We have said let's be fiscally responsible on any new mandatory spending, any new tax cuts, and require that people come together in a bipartisan way. It is a conscious choice, a supermajority vote. But we have also said we are going to increase the budget in education.

Earlier we heard from colleagues talking about all the new money that has been put into education under this President. The fact is that if you include this President's budget for next year, the Leave No Child Behind legislation is underfunded by over $70 billion. We put more dollars into education because we know it is about opportunity for our kids, it is about economic competitiveness, it is about creating opportunity—to dream big dreams and go as far as you can in the greatest country in the world—and that we have to focus on education.

Our budget does that. Our budget also says that part of what we need to do is invest in children's health care. For working families, those folks whose minimum wage we raised who do not have health insurance with their job, who are working one job, two jobs, three jobs, to try to make ends meet, we think they ought not have to go to bed worried about whether their kids are going to get sick; with a prayer at night saying: Please, God, don't let my kids get sick.

The SCHIP program is about making sure we support those working families, and we made a commitment in this budget to say we want every child from that working family—every child who does not have insurance to be able to receive insurance. This budget keeps its commitment to its veterans. This budget provides real middle-class tax cuts.

Not what is on this chart. I am not interested in adding. Can you imagine, $118,000-plus is the tax cut for last year? That is more than the average person in Michigan or anywhere in this country makes in a year. That is more than they make in a year.

We say we need a different kind of tax cut. For the folks who are making less than $118,000 a year, for the folks who are working hard every day, we want to change this picture. This amendment would basically say: The current tax cuts that are in place are great, we want to make it harder to change them. They keep in place something that frankly has been so unfair to middle-class Americans.

All over Michigan, when you talk to folks about tax cuts, most people say to me: What tax cuts? What are you talking about? I did not get a tax cut. You mean that tax cut that went into place in 2001?

You don't remember getting that big tax cut? Most people never saw that tax cut. That is why if you earned more than half a million dollars last year, you saw it, $21,000 worth. If you earned more than $1 million last year, you got over $118,000 in tax cuts.

We need a new direction. That is what this budget resolution is about, a new direction for the country that says: It is about everybody. It is about everybody who works hard every day, who gets up in the morning, does their best knowing they are going to be able to share in tax cuts.

But they are also going to be able to share in a community, in an educational system that works for the kids, being able to send them to college; that they are going to be able to share in the great health care we have in this country. We have got the greatest health care in the world. We have got 50 million people with no health insurance.

We spend twice as much money as any other country in the Western Hemisphere on our health care coverage. We are saying: We can do this better. We can do this differently so that American families reap the benefit of working hard and know that the future of this country is available to them for the great things about this country, the health care system, access to college, good schools are available to them.

Then we go further and we say: We want to make sure you have enough police officers on the streets and firefighters and that local communities can take care of water and sewer needs and other issues and protect the environment; in Michigan, it is the Great Lakes and our air, to be able to breathe the air, and on and on.

There is a set of things that we are committed to doing. The good thing is all that domestic spending we have talked about, that $18 billion in increased spending, 17 percent of the entire budget, only 17 percent of the entire budget, our investments that we are talking about for the people of this country.

Let me also say again, when we talk about differences and where dollars go, $10 billion, $10 billion a year is needed to make sure every kid in this country has health care. That is what we are spending in 1 month in Iraq—1 month in Iraq worth of funding to fund every child in America with health care coverage.

We believe we need to be doing that. In fact, the entire increase in investments in the future for this country's health care, science, education, protecting the environment, law enforcement, all of it adds up to less than 2 months' spending in Iraq.

What this amendment would say is we are going to make it very hard to do any other kind of investments for the American people, American families, but we are going to make it easy to extend this kind of tax cut for people earning over $1 million a year.

I hope we will say no. I hope we will say yes to the budget resolution. We are bringing back fiscal responsibility and stopping digging so the hole does not get any bigger and we can get out of it. We are redirecting the priorities of this country to reflect what the majority of Americans want to see happen for the future of this country and for the future of kids.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I understand now that Senator CORNYN is going to offer an amendment. We have a unanimous consent agreement which would put him in order. So I yield to Senator CORNYN for the purposes of offering an amendment.

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

AMENDMENT NO. 477

Mr. CORNYN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. CORNYN], for himself, Mr. GREGG, Mr. GRAHAM, Mr. BUNNING, Mr. MCCAIN, Mr. ALLARD, Mr. CRAPO, and Mr. DEMINT, proposes an amendment numbered 477.

Mr. CORNYN. Mr. President, 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:

(Purpose: To provide for a budget point of order against legislation that increases income taxes on taxpayers, including hard-working middle-income families, entrepreneurs, and college students)

At the end of title II, insert the following:

SEC. _____. POINT OF ORDER AGAINST LEGISLATION THAT RAISES INCOME TAX RATES.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal income tax rate increase. In this subsection, the term ''Federal income tax rate increase'' means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

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

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

Mr. CORNYN. Mr. President, my amendment creates a 60-vote point of order against any legislation that raises income taxes on taxpayers. Now, I have served on the Budget Committee, and we have had discussions during the course of marking up this budget resolution in the committee.

The chairman tells me it is not his intention for this budget to reflect a tax rate increase. I say good for him and good for us if that, in fact, is true. The problem is that this budget, over the next 5 years, contemplates a $146 billion increase in discretionary spending. That money has to come from somewhere.

Unfortunately, during the committee's debate on this budget, I offered this amendment, but it was opposed. I am told the chairman may have some different views today after additional clarification and explanation. We will see.

But let me make sure it is clear that this amendment will not hinder our efforts to shut down and close illegal tax shelters or perceived loopholes in the IRS Code. This amendment deals with the tax tables contained in the 1040 form that the IRS annually sends to every taxpayer. It will not—let me be clear—it will not hinder efforts to reform or overhaul the Tax Code. Any tax simplification effort will need bipartisan support in the Senate, and if it is revenue neutral, I am confident it will be forthcoming.

Rather, this point of order is an insurance policy when Congress decides to look at the pocketbook of taxpayers for even more revenue instead of looking for ways to eliminate Government waste, fraud, and abuse. The former Chief Justice, John Marshall, said:

The power to tax is the power to destroy.

The power to tax is the most powerful tool Congress has at its disposal, and my amendment puts it in a place where it will be a safeguard that will protect the pocketbooks of middle-class families, college students, and entrepreneurs. Some of my colleagues on the other side of the aisle are advocating that we pull the rug out from our economy and roll back the President's tax relief or simply let it expire on its own. That is the last thing we should do to protect growth policies of this Government that have helped this economy perform well.

Similar to millions of Americans out there, I am very optimistic about where we are headed. Frankly, I am surprised that our numbers, the good numbers that are reported almost weekly and monthly have not made more headlines because we have one of the strongest economies of any industrialized country in the world despite the present-day challenges we experience.

The economy's performance speaks to its resiliency and its strength. We can and we should take pride in this economy's performance and look for optimism toward the future. Earlier this month, the Labor Department reported that almost 100,000 new payroll jobs were created in February and that the unemployment rate remains at a historic low, about 4½ percent.

The progrowth policies we have been working and living under have given rise to 21 straight quarters of growth and 7.6 million new jobs over the past 42 consecutive months—a tremendous accomplishment and a trend we must work to continue as we face significant fiscal challenges ahead. As we move forward, the last thing we need to consider is reversing the policies that have helped bring about this well-performing economy. We need to continue to generate more revenue, not by raising tax rates but by allowing this economy to create those revenues which are unprecedented in our Nation's history, as we allow more Americans to keep more of their hard-earned money.

In fact, I think we should go a step further and make the President's progrowth tax relief permanent, because if we don't, we will not only jeopardize future economic growth but also the financial well-being of millions of Americans—families, small business owners, seniors, all will face higher tax bills beginning in 2011.

Not making this tax relief permanent will result in an increase in taxes to every American taxpayer. For example, a family of four with two children making $50,000 in annual income would see an increase of $2,092 in its tax bills or a 132-percent hike.

The chairman of the Budget Committee argues that his budget does not raise rates to the American taxpayer, and I am hopeful that is the case. Frankly, there is no way the chairman can guarantee this policy assumption will remain, short of my amendment. I see this amendment as an insurance policy when Congress decides to look at the pocketbooks of the American taxpayers for more revenue, which would contemplate applying the brakes on the economy instead of eliminating Government waste, fraud, and abuse.

I have had conversations with the distinguished chairman of the Budget Committee. He has indicated to me that perhaps there are some questions he has about the import or the impact of this amendment. I would be glad to respond to any questions he may have.

Mr. CONRAD. I thank the Senator from Texas very much. Senator CORNYN is another member of the Budget Committee whom I always look forward to working with and hearing his views; sometimes we agree, sometimes we do not.

But with Senator CORNYN, it is always done in a collegial and professional manner, and I appreciate the attitude he brings to the committee.

I have three questions I wish to ask Senator CORNYN with respect to this amendment. First, would it be the Senator's intent, in any way, that this amendment would preclude a corporation or an individual from paying more if we were to close down certain offshore tax havens?

Mr. CORNYN. Mr. President, I would answer the Senator's question by saying it would not. The import and the effect of this amendment would be to prevent an increase in the rate of taxes but not to close loopholes on those who are not paying taxes or not their fair share of taxes.

Mr. CONRAD. I have one question related to tax havens, one to tax loopholes, and one to tax gap. So my understanding, from the answer to the first question—which went to the question of tax havens—is that offshore tax havens that certain companies and individuals have been setting up in order to avoid the U.S. taxes, you have no intent in this amendment to preclude us from collecting more revenue from those who were engaged in those practices?

Mr. CORNYN. Mr. President, that is correct.

Mr. CONRAD. The second question would be with respect to the tax gap. Obviously, we have some who are not paying what they legitimately owe under the current Code. I assume it would be the Senator's position that his amendment would not preclude us from collecting more revenue from companies or individuals who are not now paying what they legitimately owe under the current law.

Mr. CORNYN. Mr. President, the Senator is also correct. This would not affect collecting taxes from what people are not paying that they do legitimately owe now.

Mr. CONRAD. Final question goes to this more nuanced question of basically tax scams, circumstances such as the one I have described earlier today in which U.S. companies and investors are buying foreign assets—for example, sewer systems or public facilities such as commuter rail or other foreign assets—depreciating them on the books

here for tax purposes, and then engaging in lease back of those assets to the communities that paid for them in the first place. Would it be correct to assume there is nothing in this amendment that would preclude us from shutting down those abusive tax shelters?

Mr. CORNYN. Mr. President, I say to the distinguished chairman of the Budget Committee, there is nothing in this amendment that would preclude the action he described.

Mr. CONRAD. I say to the Senator, based on his answers to me, I would be willing to accept the Senator's amendment. Would the Senator be willing to accept a voice vote on the amendment?

Mr. CORNYN. Mr. President, I say to the distinguished chairman of the Budget Committee, my concern is that amendments that are accepted or taken by voice vote are sometimes looked upon by the conferees as having less dignity and likely not to make it out of the conference committee as compared to amendments on which there is actually a rollcall vote. It would be my preference to ask for the yeas and nays and to have a rollcall vote. We can stack it along with other votes we will be having. I don't think it will delay the work of the chairman or the ranking member. That is my preference.

Mr. CONRAD. Let me say, the Senator has that right. I don't think we need to belabor this point. I have received answers to the questions I had. The Senator has been very forthcoming with respect to his answers.

Mr. CORNYN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CORNYN. I thank the Chair and the distinguished chairman and ranking member of the Budget Committee for their courtesy.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I apologize to both Senators. I wanted to say that tomorrow night, unless there is something changed, we will be in session until 1 a.m. Thursday morning. Unless we work something out on the time on this by yielding back time, the next night—that is, Thursday night—we will be in all night. That is the only way the time can be used up. If that happens, our time will be gone at 1:30, approximately, on Friday morning. That is when the vote-arama would start. We have no two men who are more experienced than these two managers. This is a difficult bill. Hopefully, we can work something out to yield back part of the time. If we can't, we have to do that because we have to have final passage or a final vote on this matter sometime Friday. That is where we are. The vote-arama could take us into Saturday. But to get to Friday at 1:30 is going to take all night tomorrow night, all night Thursday night, until 1 o'clock Friday morning.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from North Dakota.

Mr. CONRAD. Madam President, I ask unanimous consent that no other amendments be in order today; that on Wednesday, when the Senate resumes the budget resolution, there be 42 hours remaining equally divided; that on Wednesday, the first amendment be offered by a Republican Senator, and the intention is that be Senator ENSIGN, and that the next amendment be one offered by the majority leader or his designee; further, that no rollcall votes occur prior to 5 p.m. Wednesday and that the first vote in the sequence be the amendment offered by the majority leader or his designee.

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

Mr. CONRAD. Madam President, for the information of the Senate, I would like to announce that during the vote sequence, if Republicans have an alternative to the first Democratic amendment, then it would be voted after the Democratic amendment, and we expect that other amendments will be offered and debated Wednesday prior to 5 p.m. So there are expected to be a series of votes at that time. We expect that they will be voted in an alternating fashion; that is, going back and forth between the two parties.

Mr. GREGG. This has been worked out. This is an appropriate way to proceed, and it makes significant progress. I would hope that tomorrow evening when we start this vote, we will have more than these amendments lined up. In fact, I hope we have five or six other ones to vote on so we would have quite a series of votes at 5 o'clock tomorrow night. That will get us on course.

Mr. CONRAD. It is entirely appropriate to say to our colleagues, to put them on notice, that we intend to have a series of votes after 5 o'clock, not limited to these. The other amendments we are going to try to get through as quickly and as fairly as we can tomorrow so that we reduce what is left over for vote-arama.

Mr. GREGG. If I may add, reserving the right to object, tonight, if people wish to come down and speak on the resolution, this is a good time to do it.

Mr. CONRAD. This is an excellent time to speak on the resolution, but there will be no further amendments in order, nor votes.

The PRESIDING OFFICER. The consent had been granted.

Mr. CONRAD. We appreciate that. I appreciate very much the cooperation of Senator GREGG in setting up this series of votes tomorrow tonight.

We have the Senator from Ohio. How much time would the Senator like?

Mr. BROWN. No more than 5 minutes.

Mr. CONRAD. I yield 5 minutes to the Senator from Ohio. We are delighted he is here to talk about the budget.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, for too long policies set in Washington have failed to represent the values of families throughout our Nation. The last 6 years, the President has used his State of the Union Address to assert his administration's commitment to economic development, to quality education, to enhanced national security, and to other worthwhile goals. For the last 6 years, he has presented a budget that cuts funding, that cripples communities, that devastates families. His administration talks about the importance of economic development, then they propose cuts to small business and to manufacturing programs. His administration talks about the importance of education, then year after year they dramatically underfund No Child Left Behind. The administration talks about the importance of homeland security, then they cut critical first responder funding, all the while continuing to push for more tax breaks for billionaires.

Budgets, as we know, are moral documents, for a business, for a family, and for a government. Budgets reveal what is important and what is not. They reveal priorities. Over the last 6 years, the Federal budget has strayed further and further away from the priorities of the people we represent. This budget is an opportunity to reverse course.

Members of Congress serve at the pleasure of those who elected us to office. We are supposed to serve on their behalf. Families across Ohio, families across the Nation made their priorities well known last November. They want a budget that helps to educate our children, invests in our communities, and secures our Nation. They want a budget that supports our military overseas and our first responders at home and our veterans and our soldiers and sailors when they return. They want a budget that values our Nation's veterans, bolsters the public health, and makes a meaningful, not a token, investment in alternative energy.

Congress has hard work to do in the months and years ahead. Six years ago, we had a budget surplus. Now we have deficits as far as the eye can see. We must realign our budget priorities and our policymaking to reflect the priorities of working families. This budget takes us in a new direction, guided by our constituents' priorities.

Say no to the Sessions amendment. Say yes to the budget resolution. It is a new direction. It is the right one.

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.

Ms. STABENOW. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BROWN). Without objection, it is so ordered. Does the Senator from North Dakota yield time?

Mr. CONRAD. I am always happy to yield time to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I know our budget leaders are working diligently as they put together what will be happening on amendments. I thought I would take a moment to summarize again what it is that we are proposing in this budget resolution. Let me again commend our leader, Senator CONRAD, the very distinguished Senator from North Dakota, for his incredible job of putting together a very complicated budget with many pieces. He has worked very hard. His staff has worked very hard. I thank them for that, as well as the distinguished former chairman, current ranking member, the Senator from New Hampshire, who is also a real pleasure to work with. Even though we disagree on many philosophical points, it is a pleasure working with him. I appreciate all of his hard work and the hard work of his staff.

What we are looking at for the next year and for basically the 5 years of the budget resolution is a return to fiscal responsibility; in other words, we think it is time that we stop digging the hole and start filling in so we can climb out of it. In other words, we think it is time to start paying the bills and not spending more than we have, which is what every family in America has to wrestle with every day. They expect us to make the tough choices to do the same things. This budget does that.

This budget also puts middle-class families first. We start by addressing all that we know families are concerned about. It is a new direction for America. It is a new time.

We have seen in the last 6 years an effort to put the privileged few first—whether that was tax cuts, whether that was other kinds of investments, or a lack of fiscal responsibility, a real borrow-and-spend mentality.

We now are saying it is time for a new direction. I think the people of America said in November it is time for a new direction. They elected a new majority, and it is our job, it is our responsibility now to fulfill that.

That is what this budget resolution does. It reflects a very different set of values and priorities. We do return to fiscal discipline. In fact, by year 5—by year 5—we are back in the black, which is extraordinary given the fact that in the Clinton years, in the 1990s, we did all the hard work of getting it into balance. I remember being in the House with the distinguished Presiding Officer, the Senator from Ohio. We were in the House together. It was a very tough time to make tough decisions to balance the budget. The first year I was in the House, we did that in 1997. Then we began to see surpluses. We did that with a very balanced approach. We did that with tax cuts to stimulate the economy, but it was for middle-class families and small businesses and those who were creating jobs in America. We did it by strategic investments. We did it by strategic investments in education, innovation, science, technology development, and investing in health care.

That is when the first children's health care program was developed, to provide health care for children of working families who do not have health insurance connected to their job. We did it by making some very tough decisions that put Social Security first and stopped using that trust fund as a way to fund other things. As a result of some tough decisions and some smart investments, by 2001, when I had the privilege of coming to the Senate representing Michigan and sitting on the Senate Budget Committee, we had the largest budget surplus in the history of the country—$5.7 trillion. I could live on that—$5.7 trillion.

We had, then, choices. What do you do with that? After all that hard work, what do you do with that?

I remember the now distinguished chairman of the Budget Committee, the Senator from North Dakota, suggesting what I believed was a very wise plan at the time. He said: We need to be balanced, as we have been, as we were in the 1990s, in getting us to this point. We need to do strategic tax cuts, again to stimulate the economy. Those kinds of tax cuts create jobs in America, innovation. Then we need to have strategic investments in our people, in science, in health care, in education, having the opportunity for people to be able to afford to go to college.

Let's make sure our communities are safe by having enough police officers on the streets. Let's do those things that protect our air and our water and our land and invest in the quality of life of America. So let's do that for one-third; tax cuts for one-third. And then we know we baby boomers are coming. We know the concern about Social Security. So let's take a third of all that surplus and put it aside, put it into prefunding the gap we know is coming.

That was the current chairman's plan. I thought that was a good plan. I supported it. We were in the minority, and we were not successful in passing that plan. I believe if we had, we would not be debating the gap in Social Security as we are now, and we would not be talking about digging ourselves out of a hole that has been created, because instead of that balanced approach that every family would take trying to balance out multiple needs—and how do we make sure we are smart, how do we be strategic, how do we create opportunities, and so on—instead of doing that, virtually all of it was put into a tax cut that resulted last year in people who earn over $1 million—just in 2006—getting an over $118,000 tax cut, which was more than most people in Michigan make in a year.

So that was done. Then it left us no rainy day fund, no ability to respond to emergencies. Then the war happened. We essentially put it on a credit card. Other things were passed that were essentially put on a credit card. We racked up—I should not say ''we;'' I did not support those things—the largest deficit in the history of the country.

Now there is a new majority, and we have inherited all of the things that happened before. I heard tonight colleagues on the other side of the aisle talking about all these problems in the budget. Boy, do we agree. Unfortunately, we did not create those problems. We have inherited those problems over the last 6 years. But we know it is our responsibility to do something about it. That is what this budget does. This budget is an effort to be responsible, to do what every American wants us to do to get our arms around this deficit, to do those things that will require tough choices, the right choices.

We say if there are going to be further tax cuts or mandatory spending in the future, you should have to think long and hard, and we should have to get 60 votes or a supermajority to do that because we want to make it a fiscally responsible budget.

But we also understand part of being responsible is responding to what is happening to every—almost every—American family across this country. Earlier today, I heard the distinguished ranking member on the Budget Committee talk about how great things are, how great things are going. Well, they are not going great for a majority of Americans in this country who have seen their real wages, their earning power go down since 2000, not up. For others it may be going up. Corporate profits are going up. The S&P 500 is going up. But for everybody working hard every day, trying to make ends meet for their family, their wages on average are going down.

This budget addresses that issue. This budget focuses on middle-income families and those working very hard to get into the middle class who are saying: What about me? When is somebody going to stop what is going on and focus on the majority of Americans and what we need to grow the economy, our quality of life, and to make sure our families have what they need, who are working hard every day? That is what this budget addresses, those people who are, in fact, the majority of the people.

So we do it in a number of ways. We do it by investing in education. When you look at the President's budget for this year, and you add up past years, there is over a $70 billion shortfall in Leave No Child Behind. We are leaving a lot of kids behind. There was a commitment made to raise standards, and at the same time to give resources to schools, and it is $70 billion short as of this date with this President's budget.

We put more money into education. We do not think that is good enough. I was at an education hearing today, and some very good points were made. In fact, our chairman, the distinguished Senator from Montana, told a story at the beginning of the hearing about Rip

Van Winkle waking up and seeing all these changes in the world, but he finally could feel comfort because the school looked the same.

My kids graduated from college not long ago, but not too long ago high school. One of the things that consistently has caused me great concern is that the schools they went to look dangerously like the schools I went to. Yet we carry around personal computers. Every single one of us operates with computers. We have computers right here in the Senate Chamber. Yet we do not have one on the desk for every child in America. So we are leaving kids behind in a lot of different ways. We say in our budget resolution, that is not OK. We want to turn that around. So we put dollars back. We stopped the cuts the President has, and we invest more dollars in education and innovation.

Then we say if you are working hard and you are trying to make ends meet, and you are working in a job that does not have health insurance for your family, you ought to be able to know that when you go to bed at night your kids have health care and you can do something about it if they get sick. That is what we do by making a commitment to fully fund what is called SCHIP, the Children's Health Insurance Program. This is something that is available to working families. Low-income families are able to receive Medicaid. These are families who are working hard, families whose minimum wage we raised not long ago. So maybe they only have to work two jobs now instead of three to make ends meet, but they still do not have health insurance. We make a commitment to provide that health insurance for every child of a working family.

That is a very important value. It is a very important principle. I hope we are going to come together with strong bipartisan support to be able to do that.

We also then keep our promise to our veterans. We all know what has happened at Walter Reed. We know also there are other very serious system problems. In my State of Michigan, people wait too long to see a doctor. They drive too far to get basic kinds of tests, blood drawn, or x rays. We need to do a better job for our veterans. We need, frankly, to get them out of the yearly budget process and put them into a situation where they know their funding is assured.

Our budget, for the first time ever, I assume—certainly for the first time since I have been here; and I have asked others, and I think it is the first time ever—we have in the budget the amount recommended by the independent budget which is organized by all the veterans groups. The veterans groups have come together. They analyze the VA health system and other needs and recommend to us what is needed.

For the first time, our budget for veterans health care and other critical needs matches what they are recommending. This is very important. We are making veterans—our men and women who are coming home from wars, who put on a veteran's cap, who may have tremendous hardships, physical challenges, mental challenges, financial challenges from being extended more than once—and with serious issues for families—we make veterans a top priority and say we are going to keep our promise to our veterans. That is an integral part of our budget resolution.

Then we go back to what we have always been about. The other side will say: Well, we are for tax increases. No. No. We just want to see the folks who are working hard, who are the majority of Americans, get the tax cut. I am not interested in another tax cut for somebody who makes over $1 million a year, who got $118,000 back in a tax cut last year. I want somebody making $118,000 a year to get a tax cut. We start by saying the alternative minimum tax, which is creeping up and hitting middle-income people, should be changed so it does not become the alternative middle class tax. We are very focused on making sure the other parts of the Tax Code that are important to families remain in place and that we, in fact, are giving middle-class tax cuts.

Then we take a look at all of the efforts to deinvest, to defund that the President recommended in education, cutting the COPS Program again, firefighter grants, various kinds of technology programs, environmental programs in Michigan, and I know in Ohio as well. The manufacturing extension partnership is important for small and medium-sized businesses to be able to help them receive technical assistance, to be able to compete in the global economy, to be able to hire more people. We have restored the funding for that. We address other technology programs. So we also reject the President's efforts to move away from critical areas of priority and need of the American people.

So there are a lot of other pieces in this budget, but these basically, overall, are the important priorities that we have placed in the budget that say to the American people: We care about you. We want to put you and your family first. We know that you are squeezed on all sides. If you are from Michigan and losing your job or being asked to take less in your job or pay more for your health care or lose your pension, it is time to fix that. It is time to make you a priority.

That is what this budget does. It makes the people who work hard every day, who make this country run—the middle class, the people working hard every day to get into that middle class, who keep the economic engine of this country going—it makes them the priority. That is what this is all about. It is about whose interests are going to be represented in this budget.

I am very proud of the fact we are representing the interests of the majority of Americans, the folks who are working hard and seeing the gas prices go up along with the oil company profits, who are seeing their health care costs go up, maybe losing their pension, seeing the cost of college go up for their kids. Everything is going up and up and up and up. Those are the folks whose pockets we want to put money back into. That is where we want the tax cuts to go. That is where we want the tax cuts to go. That is where we want the investments in the future to go. That is what this budget resolution does.

I am very proud of the fact that we return fiscal discipline and we put middle-class families first. It is about time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. 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

Ms. STABENOW. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

RETIREMENT OF GENERAL JOHN ABIZAID

Mr. REID. Mr. President, last Friday GEN John Abizaid handed over the job of Commander of the U.S. Central Command to ADM William J. Fallon and officially entered retired life, a civilian citizen for the first time in more than 30 years.

General Abizaid entered the U.S. Army as a second lieutenant after graduating from West Point in 1973. General Abizaid is among the elite of the Army's infantry commanders—an Airborne Ranger. Over his time in the military, he led paratroopers in several key units of the 82nd Airborne Division, including the 504th Parachute Infantry Regiment and the 325th Airborne. In command of a Ranger Rifle Company, he was one of the first commanders on the ground during the invasion of Grenada. He deployed to Kurdistan during the first gulf crisis, was Commandant of West Point, Division Commander of the Big Red One, Deputy Commander of Central Command during Operation Iraqi Freedom, and took over as Commander of Central Command in 2003.

What most has distinguished General Abizaid is his combined ability as both a warrior and as one of our Nation's great strategic thinkers regarding the Middle East. He knows and understands the Middle East and its strategic implications for American security. As a young officer, John Abizaid

learned fluent Arabic, served as an Olmsted Scholar in Jordan, served with the United Nations Observer Group Lebanon, and conducted strategic research at Harvard and Stanford Universities. In his generation, there were few officers with this combined set of skills and experiences, and he served as a role model to those who now protect America's interests and fight for security in the Middle East. In the next generation of officers in the years to come, we will need hundreds, if not thousands, more like him.

I am especially pleased that General Abizaid has chosen to return to near where he grew up by making his new civilian residence in my great State of Nevada. General Abizaid has said that after retirement he would like to continue to examine how best to reform the national security apparatus of our Government to better address the ''long war'' that he believes we are fighting against violent extremism, to empower moderates in the region, and to rebuild the power, influence and security of the United States. He has said he may even write a book on these subjects, and I would hope he would do so. He has served the Nation ably and honorably over the last several decades, and while I wish him his fair share of peace, quiet, rest and relaxation not far from the shores of Lake Tahoe, I believe he has years of additional service to the Nation ahead of him. We owe General Abizaid our thanks and our deep gratitude, and I look forward to working with him in his new chapter.

BOB FERRARO RETIREMENT

Mr. REID. Mr. President, I rise today to pay tribute to the longest serving current elected official in southern Nevada, Boulder City, NV—Mayor Robert Stanley ''Bob'' Ferraro. Later this spring, Bob will retire after 31 years of dedicated public service.

For three decades, Bob has been a civic leader, kind neighbor, and level-headed voice in the politically active and dynamic community he has called home since 1970. For 17 years, Bob served on the Boulder City Council. Later, he was elevated to serve the city as its mayor. In 1999, he became the first mayor directly elected by the people of Boulder City. During each campaign, he proudly knocked on every door in town—a feat he accomplished seven times.

During his time in public service, Bob has presided over Boulder City in an era of unprecedented growth, expanding from 7,800 residents in 1976 to more than 15,000 today. The community Bob calls home is one of those unique places in America that has managed to maintain its distinctive identity in the face of massive change. Throughout the last three decades of unparalleled growth in southern Nevada, Bob Ferraro has stood alongside Boulder City residents to fiercely defend limited growth policies that have preserved this special place.

Located just 20 miles from Las Vegas, Boulder City was built by the Bureau of Reclamation during the Great Depression as a housing complex for workers building nearby Hoover Dam. While the original residents flocked to Boulder City seeking opportunity, modern times have seen generations of families choosing to reside in this city on the shore of Lake Mead for its superb quality of life, access to outdoor recreation, and sense of community.

This sense of community can be attributed, in part, to Bob's hard work. As mayor, Bob encouraged the development of parks and recreation areas throughout Boulder City. These parks affect the lives of all residents, young and old. From youth sports leagues to adult recreational programs, Boulder City's park system has allowed all residents to continue to enjoy the smalltown feel that makes this city unique.

Throughout his time serving the Boulder City community, Bob never forgot that he was a part of the community. He is a past President of the Boulder City Rotary Club and was named the 1980 Rotarian of the Year. He also served as president of the Nevada League of Cities in 1985 and was named Nevada Public Official of the Year in 1986.

His leadership, sincerity, and poise will be missed. I am honored to pay tribute to Bob Ferraro as he prepares to complete his distinguished service to Boulder City and Nevada. I wish him and his wife Connie, his three children, and eight grandchildren much happiness for the future. Southern Nevada is truly a better place because of Bob.

NORTHEAST PENNSYLVANIA MEDICARE WAGE INDEX

Mr. SPECTER. Mr. President, for a considerable period of time, there have been a number of counties in Pennsylvania that have been suffering from low Medicare reimbursements, which has caused them great disadvantage in comparison to surrounding areas. I refer specifically to Luzerne, Lackawanna, Wyoming, Lycoming, and Columbia in northeastern Pennsylvania, and there are open disadvantaged counties elsewhere in Pennsylvania. Those counties are surrounded by MSAs, metropolitan statistical areas, with higher Medicare reimbursements in Newark, and New York, to the east; in Allentown to the southeast; and in Harrisburg to the southwest. As a result, a flight of very necessary medical personnel has occurred as northeast Pennsylvania hospitals are not able to provide employees with adequate competitive wages.

Further complicating this issue are the exceptions to the Medicare wage index regulations. Since 1987, exceptions have been created to the wage index program for rural facilities, new facilities, and others. In fact, in 1999, Congress passed legislative reclassifications for specific hospitals to allow selected facilities to move to a new MSA and receive greater Medicare reimbursement. While these reclassifications have improved funding for those hospitals, hospitals that did not receive improved funding are being further disadvantaged.

It has also come to my attention that inpatient rehabilitation facilities are not provided an opportunity to obtain equitable Medicare reimbursement. Inpatient rehabilitation facilities receive adjustments in their Medicare reimbursement due to geographic disadvantages within the Medicare inpatient prospective payment system. This is based on information gathered from other acute care facilities in the MSA, not from their own wage information. Thus, inpatient rehabilitation facilities cannot apply for reclassification to another MSA that reflects their actual labor costs. As such, the facilities are prevented from being eligible for increased funding to assist with wages like acute care facilities, while being forced to compete for employees with those facilities that have had access to increased funding.

I have worked to find a solution to the Medicare wage index disparity in reimbursement for a number of years. During the conference for the fiscal year 2002 Labor, Health and Human Services, and Education Appropriations bill, the conferees agreed that there should be relief for these areas in Pennsylvania that were surrounded by areas with higher MSA ratings. However, at the last minute, there was an objection to including language in the conference report.

To correct this problem I, along with Representatives Sherwood and ENGLISH, brought the matter forward in the fiscal year 2002 supplemental appropriations bill. The language was included in the House version of the bill, and I filed an amendment to Senate bill. During conference negotiations my amendment was defeated and the provisions were not included.

As part of the fiscal year 2004 Labor, Health and Human Services, and Education appropriations bill, $7 million was provided for hospitals in northeast Pennsylvania that continued to be disadvantaged by the Medicare area wage index reclassification. The funding was provided as temporary assistance for those facilities.

During the consideration of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, I met with Finance Committee chairman, CHARLES GRASSLEY, and ranking member MAX BAUCUS about the bill provisions, including the need for a solution to the Medicare area wage index reclassification problem in Pennsylvania. Thereafter, section 508 was included in the bill, which provides $300 million per year for 3 years to increase funding for hospitals nationally to be reclassified to locations with higher Medicare reimbursement rates. The temporary program, which began in April 2004 and

was scheduled to expire March 31, 2007, has and will provide Pennsylvania hospitals $69 million over that time, or $23 million per year.

On September 29, 2006, I introduced the Hospital Payment Improvement and Equity Act to extend the section 508 Medicare wage index program for 3 more years until March 31, 2010. This legislation would have also expanded the eligibility of the program to include inpatient rehabilitation facilities and facilities that qualified for the program but did not receive assistance due to inadequate funding.

As part of the Tax Relief and Health Care Act, which was signed into law on December 20, 2006, an extension of the section 508 Medicare wage index program was included. This will provide 14 Pennsylvania hospitals an additional $18.4 million for 6 more months until September 30, 2007.

On February 21, 2007, I visited Moses Taylor Hospital in Scranton, PA, and met with representatives of northeast Pennsylvania hospitals affected by this issue. I went over with them the situation that had occurred and asked that they submit memoranda or letters outlining their hospitals' extreme plight, which I could then share with my colleagues in the Senate and have printed in the CONGRESSIONAL RECORD for everyone to see.

A letter prepared by Harold Anderson, president & CEO of Moses Taylor Hospital, Scranton, PA, pointed out the following:

Health care facilities in our area are especially disadvantaged in that we must compete for specialized, skilled health care labor in a geographic market that includes easy access to Philadelphia, Allentown, and Stroudsburg, three geographic areas in which the Wage Index reimbursement for acute care hospitals is higher than that found in NEPA [Northeast Pennsylvania].

He goes on to write:

Considering the relative scarcity and high demand for a highly skilled work force, such as nurses, pharmacists, imaging technologists, etc., the out-migration to the adjacent MSAs is further exacerbated in that NEPA hospitals are forced to pay higher salary and wage rates, which are not fully compensated by the Medicare reimbursements. As just one example, the starting salary for Registered Nurses has increased by more than 18% over the past three years.

Regis Cabonor, president & CEO of Bloomsburg Hospital, Bloomsburg, PA, wrote on February 26 as follows:

The significant volume of services provided to Medicare beneficiaries renders the Hospital largely dependant upon Medicare reimbursement to cover the cost of direct patient care. . .

He also states:

Without the additional reimbursement provided by this [508 wage index] reclassification, our hospital would not be able to attract and retain qualified clinical staff, forcing staff and our patients to travel to the next closest facility for work and care.

Similar concerns were expressed in a memorandum from Jim May, president & CEO of Mercy Health Partners, Scranton, PA, pointing out that:

The 508 reclass funding has enhanced our ability to compete with our adjacent CBSA's [Core-Based Statistical Area] for registered nurses, technicians, and other medical professionals. Over a three year span we have reduced our registered nurse vacancy rate from 12.2% to 4.5%. Significantly, we have cut our spending for contract agency nurses in half. We believe that reducing those expenses has contributed toward improved care management and quality for our patients.

Mary Theresa Vautrinot, President & CEO of Marian Community Hospital, Carbondale, PA, noted that Marian Community Hospital is the largest employer in the Carbondale area. The hospital serves a large Medicare population who would have difficulty accessing health care if not for the hospital, which struggles to find physicians to staff the facility. She notes that, without the 508 wage index funding, the hospital may not be financially viable.

Similar concerns were noted by the Community Medical Center Healthcare System of Scranton, PA. John Nillson, interim president and CEO, stated in his letter that:

The dramatic differential in Medicare payments between our MSA and the surrounding MSA's will continue to have a negative impact. . .

Further:

. . . the nursing shortage has intensified and when combined with other skilled labor shortages, has resulted in a highly competitive environment for these skilled caregivers. As a result, it remains difficult to recruit and retain healthcare professionals.

John Wiercinski, chief administrative officer, Geisinger South Wilkes-Barre, Wilkes-Barre, PA, and Lissa Bryan-Smith, chief administrative office, Geisinger Wyoming Valley, Wilkes-Barre, PA, noted that:

Due in large part to the Section 508 legislation, nurse vacancy rates have decreased significantly at both hospitals.

James Edwards, president & CEO, of the Greater Hazelton Health Alliance, which is made up by Hazelton General Hospital and Hazelton—St. Joseph Medical Center, Hazelton, PA, submitted a memorandum that similarly states:

The monies received through the Section 508 reclassification played a major part in the successful turnaround of our health care system, assuring our community that quality health care services will be available to meet their health needs.

The Wyoming Valley Health Care System, in a letter from president and CEO, Dr. William Host, points out the problems in retaining registered nurses:

Prior to [the Section 508 wage index program], the discrepancy between our reimbursement by Medicare and that of surrounding MSA's was having disastrous effects. Nurses, technologists of all sorts, nurse anesthetists and pharmacists were abandoning northeastern Pennsylvania in droves. Vacancies in these areas were running 14% to 20% and this created a serious threat to quality of care and access.

Raoul Walsh, president & CEO, Tyler Memorial Hospital in Tunkhannock, PA, sent a memorandum that shared this concern:

If the Section 508 was removed or reduced, the hospital would be forced to eliminate or reduce clinical services . . .

James Brady, president of Allied Services, of Clarks Summit, PA, an inpatient rehabilitation facility which did not qualify under the section 508 wage index program, shared that as a result of not receiving funding they have been forced to employ international nurses to fill 13 of the 30 open nursing positions.

Neal Bisno, secretary treasurer, Service Employees International Union, district 1199P, which has a number of northeast Pennsylvania hospital employees as members, addressed the issue from the workforce perspective, stating:

A permanent solution is needed [to the Medicare wage index program problems] in order to maintain a stable, well-trained health care work force in area hospitals and guarantee continued access to quality health care services in Wilkes Barre/Scranton region.

Denise Cesare, president & CEO, Blue Cross of Northeastern Pennsylvania, in a memorandum dated February 26, 2007, notes:

Due to their current Medicare Wage Index classification, hospitals in the northeast and north central regions receive disproportionately lower reimbursements when compared to similar hospitals that compete with them for services and staff. This reimbursement imbalance drains trained clinical staff, primarily nurses, from the local delivery systems. Our system continues to suffer and decline as medical professionals move to hospitals in neighboring locales because higher Medicare Wage Indexes allow these regions to pay higher salaries.

On February 24, 2007, the Scranton Times-Tribune published an editorial regarding this issue in northeast Pennsylvania. The editorial posited that northeast Pennsylvania hospitals are in critical need of reform to the Medicare wage index system to end this cycle and cogently captures the issue:

Wage rates at regional hospitals are lower than those for large metropolitan areas, resulting in lower Medicare reimbursements, resulting in the inability of many hospitals to significantly increase wages, resulting in lower reimbursements . . . and on it goes.

Congressional action is needed to reform the Mediare wage index system and provide a fair reimbursement for hospitals. MedPAC, the Medicare Payment Advisory Commission, is scheduled to release a report in late June, 2007 that will offer recommendations on reforming the wage index system. I encourage Finance Chairman BAUCUS and Ranking Member GRASSLEY to examine these recommendations and move forward with improvements to this system in an expedited fashion. Northeast Pennsylvania hospitals are in great financial distress. They deserve fair treatment.

Mr. President, I ask unanimous consent that these memoranda, letters, and editorial be printed in the RECORD.

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

MOSES TAYLOR HOSPITAL,
Scranton, PA, February 22, 2007.

Senator ARLEN SPECTER,
310 Spruce Street, Suite 201,
Scranton, PA.

DEAR SENATOR SPECTER: The Section 508 funding which Moses Taylor Hospital currently receives amounts to $3.3M in Medicare revenues each year. Given the fact that this funding is scheduled to expire on September 30th, 2007, the loss of the appropriated funds would be devastating not only to Moses Taylor Hospital, but to all of the similarly situated, acute care facilities in Northeastern Pennsylvania. Health care facilities in our area are especially disadvantaged in that we must compete for specialized, skilled health care labor in a geographic market that includes easy access to Philadelphia, Allentown, and Stroudsburg, three geographic areas in which the Wage Index reimbursement for acute care hospitals is higher than that found in NEPA.

The original Medicare Wage Index mechanism assumed that highly skilled health care workers would somehow remain in the geographic area most closely located to the acute care facility in which they would work. However, intensive media advertising campaigns, targeted personnel recruitment initiatives, and an excellent interstate highway and turnpike system make it much easier for personnel to travel to the adjacent MSAs in which acute care hospitals receive higher Medicare Wage Index payments and can, therefore, afford to pay higher salaries and wages. [Considering the relative scarcity and high demand for a highly skilled work force, such as nurses, pharmacists, imaging technologists, etc., the out-migration to the adjacent MSAs is further exacerbated in that NEPA hospitals are forced to pay higher salary and wage rates, which are not fully compensated by the Medicare reimbursements. As just one example, the starting salary for Registered Nurses has increased by more than 18% over the past three years.]

The lower Medicare reimbursements ultimately impact hospital capital expenditures since the facilities are unable to generate appropriate capital reserves to acquire advanced medical technology and upgrade physical plants. This inability to invest in buildings and equipment has the additional, unfortunate consequence of causing area residents to seek care in adjacent MSAs, often at great expense and logistical difficulties to patients and their families.

We certainly hope that the Federal Government will devise a means to address the inadequate wage component of Medicare reimbursements in the long term; however, we urge the extension of the Section 508 adjustments beyond the end of September 2007. Thank you for your continued effort and support regarding this important issue.

Sincerely,

HAROLD E. ANDERSON,
President & CEO.

BLOOMSBURG HOSPITAL,
Bloomsburg, PA, February 26, 2007.

The Bloomsburg Hospital (the ''Hospital'') is a 52-bed acute care and 20-bed psychiatric care hospital located in Columbia County, Pennsylvania. The Hospital provides healthcare services primarily to patients in Columbia and Montour counties and surrounding communities. The Hospital registers approximately 85,000 patients annually for medical care.

The geographic region served by the Hospital has had an average population over 65 years of age of approximately 16% since 1996, as reported by the Pennsylvania State Department of Health. This population is slightly higher than the statewide average of 15.2%. The over 65 population is treated by the Hospital primarily as Medicare beneficiaries.

Currently, Medicare beneficiaries account for 25% of total Hospital volumes and 31% of total payments for services. The Medicare population is the single largest payor population of the Hospital.

The significant volume of services provided to Medicare beneficiaries renders the Hospital largely dependent upon Medicare reimbursement to cover the cost of direct patient care as well as to defray the ever increasing costs of utilities, professional liability, information technology, facility upgrades and other technology expenditures. All of these expenditures are necessary to continue to provide adequate patient care in a rapidly advancing industry.

During fiscal year ended June 30, 2006, the Bloomsburg Hospital received approximately $663,000 in additional payments from the Medicare program as a result of the temporary reclassification of Wilkes-Barre/Scranton Area hospitals MSA. Should the reclassification not be extended or made permanent, the Hospital would lose this reimbursement.

It is important to note that the largest competitor to our hospital is located only 12 miles from our facility. That hospital is located in Montour County and is therefore included in the Harrisburg MSA (whose reimbursement rates from the Medicare program are consistent with the current rates paid to our hospital since the reclassification). The temporary reclassification of our hospital allowed us to compensate our clinical employees commensurate with our competitor.

Without the additional reimbursement provided by this reclassification, our hospital would not be able to attract and retain qualified clinical staff, forcing staff and our patients to travel to the next closest facility for work and care. While this is easily commutable for clinical workers seeking higher wages for comparable work, the same commute is not as manageable for elderly or sickly patients.

Without adequate qualified staff to provide medical care at our community hospital, we will be forcing patients to travel further for their care.

Sincerely,

REGIS P. CABONOR,
President and CEO.

MERCY HEALTH PARTNERS,
February 26, 2007.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: Thank you for recognizing the severe economic situation that healthcare providers face in Northeastern Pennsylvania and for your tireless efforts in securing the original 508 reclassification and our most current six month extension. I also wanted to offer high praise to your staff, including John Myers and Andy Wallace, for their willingness to work on behalf of the region's hospitals and the thousands of patients they serve.

During last week's meeting, you requested specific information about the impact of our reclass. Mercy Hospital in Scranton would lose approximately $6.2 million in the next fiscal year without the ability to maintain our reclass to the Allentown-Bethlehem-Easton, PA-NJ Core-Based Statistical Area (CBSA). In short, the reclass funding has moved us from losing money to breaking even. Prior to the original 508 reclass, we experienced negative operating margins every year from fiscal year 2000 through 2003. Since 2004, our average operating margin is 0.42%. The loss 508 funding would result in an overall CY2006 operating loss of −5.14 percent.

The 508 reclass funding has enhanced our ability to compete with our adjacent CBSA's for registered nurses, technicians, and other medical professionals. Over a three year span we have reduced our registered nurse vacancy rate from 12.2% to 4.5%. Significantly, we have cut our spending for contract agency nurses in half. We believe that reducing those expenses has contributed toward improved care management and quality for our patients.

We are very proud that since the 508 reclass we have consistently placed in the top 10 percent of hospitals nationwide for the twenty-one quality measures set by the United States Department of Health and Human Services. We performed at the 96th percentile on the nationally recognized HHS quality measures in 2006.

In addition, we are one of 27 hospitals nationally recognized by Solucient as a top 100 hospitals for cardiovascular care in the past three consecutive years. Furthermore, Mercy is one of 3 Pennsylvania hospitals certified in both cardiovascular and pulmonary rehabilitation by the American Association of Cardiovascular and Pulmonary Rehabilitation.

We believe that you agree that our mission demands delivering world-class care to our community. Elimination of the 508 funding would force us to consider staff and service reductions to cope with the substantial loss of revenue.

On behalf of our patients, our community, our employees and our physicians, Mercy implores the honorable members of the United States Congress to move towards fair and permanent reforms of the Medicare wage index and extend the 508 reclassification until these reforms take effect. Please contact me at (570) 348–7012 if I can provide further information or be of service.

Sincerely,

JAMES E. MAY,
President and Chief Executive Officer.

FEBRUARY 26, 2007.

Senator ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: Thank you and your staff, including John Myers and Andy Wallace, for your continued support of the Section 508 Wage Index reclassification for the hospitals in Northeastern Pennsylvania. This issue is paramount to the survival of Marian Community Hospital and the Maxis Health System.

Marian Community Hospital is a 104-bed acute care hospital located in Carbondale, Lackawanna County, Pennsylvania. The Hospital is the largest component of the Maxis Health System. With its 470 employees, Marian Community is the largest employer in the Greater Carbondale Area, contributing $15,000,000 annually to the local economy. Our hospital serves a predominantly Medicare and Medical Assistance population who would have considerable difficulty accessing healthcare if this hospital were not here. Because of Carbondale's proximity to Scranton (we are located 20 miles north of Scranton) and its three large hospitals, we continually encountered significant difficulty recruiting key health care professionals such as nurses and technologists. Because of our relatively small size, and location, we also struggle to attract physicians to practice here.

The Section 508 reclass has added approximately $1 million to Marian Community Hospital's annual Medicare reimbursement. These funds have allowed us to compete with the other larger hospitals to attract critical staff because we are able to offer more competitive salaries than would be possible absent the 508 reclassification. In addition, we have been able to recruit much needed physicians to the area. While $1 million does not

appear to be a significant amount of money to many hospitals, it represents 3% of our annual net revenue from all sources and 8% of our total annual Medicare payments.

In 2006, Marian Community Hospital initiated an aggressive restructuring plan to return the organization to profitability. Although this is a difficult task, we are making progress. If we lose the funds provided through the Section 508 reclassification, it would be necessary for the hospital to take drastic steps to remain financially viable, such as cutting services or significantly reducing our staff. The results of losing the 508 classification would have a detrimental impact on the patients we serve and the community in which we operate.

Your efforts to extend the Section 508 reclassification and to find an equitable solution to the wage index issue are greatly appreciated.

Sincerely,

MARY THERESA VAUTRINOT,
President and Chief Executive Officer,
Maxis Health System.

COMMUNITY MEDICAL CENTER
HEALTHCARE SYSTEM,
Scranton, PA, February 23, 2007.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: I am writing to you today relative to the Wage Index. I strongly support your initiative to maintain the Medicare Wage Index reclassification of the hospitals located in Lackawanna County to the Newburgh, NY–PA MSA for the purposes of calculating reimbursement. As Interim President and CEO of Community Medical Center Healthcare System, this critical issue still remains at the forefront of Healthcare in Northeastern Pennsylvania, and I encourage you to continue your efforts of working to find a permanent solution.

The dramatic differential in Medicare payments between our MSA and the surrounding MSA's will continue to have a negative impact on our healthcare infrastructure if this temporary fix is not extended. The financial impact for CMC is projected to be $5.6 million for Fiscal Year 2008. As you are aware, the nursing shortage has intensified and when combined with other skilled labor shortages, has resulted in a highly competitive environment for these skilled caregivers. As a result, it remains difficult to recruit and retain healthcare professionals.

Since healthcare represents a major capital asset, the failure to maintain the temporary fix would have a significantly adverse effect on every member of our community. Recognizing this potential crisis and continuing the wage index would go a long way toward assuring that northeastern Pennsylvania will have healthcare resources available.

Thank you for your consideration. I ask for your continuing support and attention to this matter.

Sincerely,

JOHN NILSSON,
Interim President and CEO.

MEMO

Date: February 27, 2007.
To: Senator ARLEN SPECTER.
From: John Wiercinski and Lissa Bryan-Smith.
Re Medicare Wage Index/Section 508.

Sen. SPECTER—Thank you very much for your recent visit to Northeastern Pennsylvania and your continued interest in and support of the Medicare Wage Index/Section 508 legislation.

The continuation of this important legislation—and a permanent fix to the Medicare Wage Index for Northeastern Pennsylvania hospitals—is imperative not only to Geisinger South Wilkes-Barre Hospital and Geisinger Wyoming Valley Medical Center, but also to the people we serve.

The positive financial impact to both Geisinger hospitals in the Wilkes-Barre area is approximately $8 million. Above all, these dollars allow Geisinger to continue to invest in our workforce so we can effectively recruit and retain the best and the brightest healthcare professionals and keep them here in our community caring for patients. Due in large part to the Section 508 legislation, nurse vacancy rates have decreased significantly at both hospitals.

The Section 508 funding also helps to ensure that our employees at Geisinger South Wilkes-Barre and Geisinger Wyoming Valley are able to utilize the latest technological advances; for example, 64 Slice CT Scanning, Stereotactic Linear Accelerators and Computer Assisted Surgical Equipment.

As major employers, hospitals have a significant impact on the local economy. Studies have shown that every dollar of expenditures by hospitals results in approximately two dollars of additional spending to local businesses. This positive economic impact is important for everyone in our area.

Thank you, again, Senator Specter, for your support.

GREATER HAZLETON HEALTH ALLIANCE, HAZLETON GENERAL HOSPITAL, HAZLETON-SAINT JOSEPH MEDICAL CENTER.

In March 2004, the Greater Hazleton Health Alliance (GHHA) and its affiliated hospitals (Hazleton General Hospital and Hazleton-Saint Joseph Medical Center) were notified of their three-year temporary reclassification into the Lancaster MSA. This reclassification could not have come at a better time, bringing in approximately $3 million per year between April 2004 and March 2007, and having a major impact on health care in Hazleton, Pennsylvania, and the surrounding communities. Without this reclassification, GHHA hospitals were headed to possible bankruptcy or sale.

The monies received through the Section 508 reclassification played a major part in the successful turnaround of our health care system, assuring our community that quality health care services will be available to meet their health needs.

As background, in 1996, Hazleton's two hospitals, Hazleton General Hospital (HGH) and Hazleton-Saint Joseph Medical Center (HSJ), reached a management agreement that formed the Greater Hazleton Health Alliance, an effort to expand the offerings of area health care as well as to carefully steward community healthcare resources.

Some initial savings were created through the formation of the Alliance and local decision-making became far more coordinated. However, with downward pressure on reimbursement and intensified competitive pressure locally, as well as from neighboring regions, GHHA began facing significant strain in 2003. As such:

Financial performance of both hospitals had deteriorated significantly eroding cash reserves. On a combined basis, operating losses were approximately $3.3 million in 2002; $6.2 million in 2003; and $2.3 million in 2004.

Important capital investments in facilities, equipment and information technology had not been made in nearly a decade.

Physician relationships were badly suffering. A loss of confidence and trust in leadership, as well as a growing perception that the quality of hospital care was deteriorating, were causing the local medical community to begin withdrawing public support and patient referrals.

Negative public perceptions of GHHA were increasing in Hazleton and the surrounding region.

Staff were accepting positions in surrounding communities, in other MSAs with higher wage indices. HGH is only two miles away from an MSA with significantly higher wage indices.

Employee morale was at an all-time low and union negotiations had become contentious.

In fall 2003, the Board of GHHA made a tough decision to seek the help of outside experts to assist with stabilization and turnaround and to advise the organization on long-term strategic positioning. A three-year Financial Recovery and Turnaround Plan was developed. Had it not been for the additional monies received as a result of the MSA reclassification, GHHA may not have been able to successfully effect a financial turnaround.

Below are just some of the GHHA's accomplishments since 2004.

Implementation of a new business model that resulted in a financial turnaround allowing us to be profitable for the last two years.

Adjustments of pay scales to market rates making GHHA hospitals competitive in recruitment and retention of highly qualified staff with surrounding communities in other MSAs.

Made strategic capital investments in equipment and physical plant approximating $18,000,000 including: expansion of HGH's physical plant to include an annex building to house non-clinical services allowing for expansion of the hospital's first floor; renovation of most of the first floor including expansion of the surgical suite/recovery unit and doubling the size of the emergency department; development of a brand new short procedure unit and a new step-down unit; renovation to the endoscopy unit and patient floors.

Investment in new state-of-the-art equipment and technology. A $3–$4 million project is currently underway to replace our entire information system, preparing us for the electronic medical record.

Consolidation of inpatient beds and Emergency Services at HGH to reduce duplicative operating and capital costs.

Surrender of the HSJ acute care license.

Commitment to deliver outstanding customer service and expansion of our quality improvement program. Patient safety and clinical care initiatives were implemented, a high-quality professional radiology group was retained, and a relationship was formed with Lehigh Valley Medical Center, a tertiary center in Allentown, Pennsylvania, to staff our Emergency Department with quality, emergency credentialed physicians.

Increased volumes by enhancing quality and expanding community outreach, initiating a staffing productivity program, and holding the line on expenses.

The hard work and collaboration of the GHHA management team brought about a renewed energy and positive momentum that continue today. The financial picture of the organization has changed dramatically, thanks in large part to the temporary reclassification to the Lancaster MSA. However, should GHHA have to revert back to the Wilkes-Barre/Scranton MSA as is now set for October 2007, the resulting financial loss of $3 million per year would, without question, hamper our ability to recruit and retain quality health professionals and continue in our quality improvement and turnaround processes. The real losers would be the communities we serve.

JAMES D. EDWARDS,
President/CEO.

WYOMING VALLEY
HEALTH CARE SYSTEM,
February 28, 2007.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Your unrelenting attention to the Medicare Wage index issue confronting northeastern Pennsylvania is deeply appreciated by the Wyoming Valley Healthcare System, its 3200 associates and the disproportionately blue collar Medicare population we serve. Due in great measure to your efforts, Section 508 of the Medicare D legislation temporarily re-classified our MSA to the Lehigh Valley. Prior to that event, the discrepancy between our reimbursement by Medicare and that of surrounding MSA's was having disastrous effects. Nurses, technologists of all sorts, nurse anesthetists and pharmacists were abandoning northeastern Pennsylvania in droves. Vacancies in these areas were running 14% to 20% and this created a serious threat to quality of care and access. The negative impact on the regional economy was another serious matter.

After the temporary repair, changes were dramatic. All the institutions spent the money as intended—90% to improve employee wages and benefits and 10% for capital equipment they need to do their work with quality and efficiency. Vacancies are now down to 1–2%. Morale is greatly improved while quality of care and access are preserved.

We are now faced with a deadline of September 30, 2007 to achieve either another extension or a permanent repair. Failure to do so will mean a loss of $8.5 million to WVHCS, a serious decrease in our ability sustain access, a threat to quality of care, a serious departure from our 135 year history of bringing the best in personnel and technology to bear on the health of citizens in our region, and all the associated adverse effects on our economy.

Thank you, Senator, for all your past and current efforts. If there is anything we can do to enhance your prospects of success in this matter, please do not hesitate to communicate that to us.

Sincerely and respectfully,

WILLIAM R. HOST,
President and CEO.

TYLER MEMORIAL HOSPITAL,
Tunkhannock, PA, February 28, 2007.

To: Senator ARLEN SPECTER.
Re Section 508.

DEAR SENATOR: Thank you for providing Tyler Memorial Hospital the opportunity to comment on losing Section 508 reimbursement.

Tyler is a rural hospital that necessitates every Medicare reimbursement to fulfill its community mission. The Hospital consists largely of a Medicare and Medicaid population supporting the infrastructure. The hospital would lose approximately $400,000 on a hospital budget of nearly $26,000,000. If the Medicare Section 508 was removed or reduced, the hospital would be forced to eliminate or reduce clinical services, forego salary increases for a period, or some combination thereof to create a solution.

Please note that Tyler is 28 miles from Scranton and Wilkes-Barre with less than ideal driving arrangements. Elderly patients don't like to travel great distances for routine care and they may have to if this comes to pass.

Sincerely,

RAOUL M. WALSH,
President/CEO.

ALLIED SERVICES,
Clarks Summit, PA, February 26, 2007.

Senator ARLEN SPECTER,
Hart Building,
Washington, DC.

DEAR SENATOR SPECTER: per your request, the following is the effect on Allied Services who did not get its wage index adjusted. I thought we would be a good resource for what could have happened to all the acute care hospitals if they did not get the wage index adjustment. Perhaps our data will be useful in demonstrating how important the adjustment is to our health care region.

These numbers are the totals for the approximate 3½ year period.

Additional Wage Index Revenue Not Received—$16 million.

Over and beyond expenses normally needed for recruitment and filling vacancies: Contract Labor—$3.5 million; Recruitment—$1 million; Advertising— $1.5 million; Sign-on Bonus—$1 million; Overtime—$1.5 million.

Total additional expenses—$8.5 million.

Total effect of not getting wage index adjustment on Allied was $24.5 million.

The wage index affects all employees but this is our nursing staff data. Allied Services had 23 position openings 3½ years ago. Today we have 17 openings but would have 30 if we did not recruit 13 nurses from the Republic of the Philippines.

I hope this data helps to support the need for the wage index adjustment.

Sincerely,

JAMES L. BRADY,
President.

SERVICE EMPLOYEES INTERNATIONAL
UNION, PENNSYLVANIA'S HEALTH
CARE UNION,
March 2, 2007.

Senator ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your willingness to work on behalf of the region's hospitals, hospital employees and the thousands of area patients. We appreciate your efforts in securing the original 508 reclassification and our most current six-month extension.

In our region and across the country, at a time when more patients are struggling to access the health care they need, nurses—the central providers of that care—are leaving the bedside in large numbers as a result of poor working conditions and low wages. However, a recent study published by the Institute for Women's Policy Research, ''Solving the Nursing Shortage through Higher Wages'' found that increasing pay for nurses is a direct way to draw both currently qualified and aspiring nurses to hospital employment. Hospitals that offer higher wages are able to attract more nurses, leading to more adequate staffing and improved patient care.

As you know, our area hospitals operate with restricted budgets, low operating margin and financial instability. Our hospitals in the Wilkes-Barre/Scranton area are heavily dependent on Medicare. Yet, we have found that the temporary reclassification, access to more appropriate Medicare reimbursements, has had direct impact on region's health care workforce. Area nurses and hospital workers have shared in the benefits of increased Medicare funding. For example, in their most recent contract settled in late 2005, SEIU 1199P RNs at Geisinger South Wilkes-Barre (formerly Mercy Hospital Wilkes-Barre) increased wages an average of 13% in the first year of the contract and 31% by 2010. SEIU 1199P RNs at Geisinger Wyoming Valley Medical Center in Wilkes-Barre negotiated comparable wage rates in their negotiations in January 2006. We directly attribute these advances to two factors: the improve Medicare reimbursement and high union density in the Wilkes-Barre market. Area nurses used their collective bargaining strength to hold hospitals accountable to investing the additional reimbursements into increasing nurse wages. These increased wages not only significantly enhancing nurse retention and recruitment but also improve the quality of care at area hospitals.

While section 508 was tremendously helpful to our area hospitals, currently this assistance is temporary. Section 508 reclassified our hospitals for only three years. Without congressional action to extend section 508, these reclassifications will expire in March 2007. A permanent solution is needed in order to maintain a stable, well-trained health care workforce in area hospitals and guarantee continued access to quality health care services in Wilkes Barre/Scranton region. Retaining and strengthening the ranks of a qualified, dedicated professional health care workforce is essential to strengthening our region's health care system.

On behalf of our members, our families and the patients we serve, SEIU District 1199P urges the United States Congress to move toward fair and permanent reforms of the Medicare wage index and extend the 508 reclassification until these reforms take effect. Please contact me at (717) 238–3030, ext. 1020 if I can provide further information or be of service.

Sincerely,

NEAL BISNO,
Secretary Treasurer.

BLUECROSS OF
NORTHEASTERN PENNSYLVANIA,
Wilkes-Barre, PA, February 26, 2007.

HON. ARLEN SPECTER: The following is submitted on behalf of Blue Cross of Northeastern Pennsylvania (BCNEPA) in support of our hospital partners throughout the northeast and north central regions as we collectively strive to address the impacts of Medicare Wage Index funding shortfalls.

Across Pennsylvania, hospitals have been struggling to achieve positive results for many years. Although we have seen some positive changes in our region in recent years in terms of financial results, the situation remains critical as evidenced by the following:

Only 9 of the 22 hospitals in our region had a positive 3 Year Average Total Margin.

Of the 9, only 4 hospitals had a 3 Year Average Total Margin of 4 percent or greater, which is commonly accepted as an industry benchmark for acceptable performance.

In Lackawanna and Luzerne Counties, only 1 hospital had a positive 3 Year Average Total Margin and that margin was less than 4 percent.

Hospitals in our region are heavily dependent on Medicare. In aggregate, approximately 44 percent of our regional hospitals' revenue comes from Medicare. In Lackawanna and Luzerne Counties, 48 percent of the hospitals' revenue comes from Medicare. The hospitals' next closest payer to Medicare is the Blues at 23 percent. As the second largest payer in our region, BCNEPA—and unfortunately our ratepayers—will continue to be negatively affected as Medicare reimbursement falls short.

The overall financial struggle for hospitals in our region, coupled with the high rate of Medicare dependency, make the current Medicare Wage Index situation a critical one for our facilities. Due to their current Medicare Wage Index classification, hospitals in the northeast and north central regions receive disproportionately lower reimbursements when compared to similar hospitals that compete with them for services and staff. This reimbursement imbalance drains

trained clinical staff, primarily nurses, from the local delivery systems. Our system continues to suffer and decline as medical professionals move to hospitals in neighboring locales because higher Medicare Wage Indexes allow these regions to pay higher salaries.

Our region has been fortunate, through the leadership of Senator Arlen Specter and others, to have benefited from temporary Section 508 funding adjustments over the past several years. These adjustments have been a temporary yet critical funding source for our area hospitals. The loss of these funds will represent at least a $35 million financial loss for area facilities, a loss that cannot be absorbed by commercial insurers and their customers.

We are therefore asking for consideration of a more permanent solution to the current calculation of Medicare Wage Index reimbursement for facilities in the northeast and north central regions of Pennsylvania.

DENISE S. CESARE,
President and CEO.

[From the Scranton Times Tribune, Feb. 24, 2007]

RESOLVE FUNDING FOR QUALITY CARE

Hospitals in Northeastern Pennsylvania face the same economic pressures as hospitals everywhere else—and then some. Here, hospitals also face a vicious cycle involving Medicare funding that threatens the financial well-being of regional hospitals and, therefore, access to quality health care for hundreds of thousands of regional residents.

Wage rates at regional hospitals are lower than those for larger metropolitan areas, resulting in lower Medicare reimbursements, resulting in the inability of many hospitals to significantly increase wages, resulting in lower reimbursements . . . and on it goes. The low reimbursement issue is particularly difficult for hospitals in this region because the relatively high average age here means that regional hospitals have a higher percentage of Medicare patients than do hospitals in other parts of the country. Thus, they treat more Medicare patients for less money.

Since 2004, the hospitals have done somewhat better because of a temporary fix authorized by Congress, under which indexes from nearby metropolitan areas have been applied to the regional hospitals. That measure is due to expire in June and, without an extension, 13 regional hospitals will return to the standard reimbursement formula and lose $35 million a year.

According to several local hospital administrators who met with Sen. Arlen Specter on the issue this week, they have been able to reduce nursing shortages through better pay and otherwise shore up their operations since Congress' action in 2004.

Nationwide, about 80 hospitals are in the same position as those in Northeastern Pennsylvania. Mr. Specter and Sen. Bob Casey, along with Reps. Paul Kanjorski and Chris Carney, should work with their colleagues from the other regions with unrealistic reimbursement rates, in order to permanently set fair rates that ensure access to quality care.

HONORING OUR ARMED FORCES

STAFF SERGEANT DUSTIN GOULD

Mr. SALAZAR. Mr. President, I wish to take a moment of the Senate's time to remember a Coloradan who was lost to us in Iraq last week. Marine Corps SSgt Dustin Michael Gould—7th Engineer Support Battalion, 1st Marine Logistics Group, I Marine Expeditionary Force—was in his fourth tour in Iraq when he was taken from this life, at the age of 28.

Sergeant Gould was a unique man, with a unique job in Iraq: he was an explosives ordnance demolition technician—a marine who disarmed bombs. In a country whose fabric is strained almost daily with bomb attacks, Sergeant Gould was there to help prevent them, literally working to defuse violence that threatened his fellow marines and Iraqis alike.

Dustin Gould grew up in several towns in Colorado and attended Berthoud High School in Longmont, which he graduated in 1997. He chose to serve his Nation in the Marine Corps because of their elite status.

During his service to this Nation, the Marine Corps estimates that Staff Sergeant Gould neutralized more than a million pounds of explosives, explosives that could have killed untold numbers of marines. Every time Dustin Gould went to work, he saved lives. That, truly, is the definition of heroism.

With all of this talk of military service, we should not lose sight of the man. Dustin Gould loved the outdoors and spent his spare time as a young man there with his father. He was respectful and thoughtful, a natural leader who never hesitated to lend a hand to a friend in need.

GEN Douglas MacArthur once said, ''The soldier, above all other people, prays for peace, for he must suffer and bear the deepest wounds and scars of war.'' Dustin's father David said that Dustin did not relish conflict but was serving his Nation because a higher calling, protecting our freedom and way of life, compelled him to act. He did not seek praise or recognition but instead accomplished his job with humility and courage and in doing so helped others do the same.

In the midst of America's Civil War, President Abraham Lincoln wrote to the mother of a Union soldier, ''I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours, to have laid so costly a sacrifice upon the altar of Freedom.'' We pray now for Dustin, for his wife Elizabeth, and for his whole family. The wounds they suffer from the loss of Dustin are deep and painful, and we as a Nation honor their and Dustin's humbling sacrifice by never forgetting this fine young man.

SPECIALIST BLAKE HARRIS

Mr. President, I ask the Senate to turn its attention to the loss of a Coloradan in Iraq, Army SPC Blake Harris, of Pueblo, CO. SPC Harris was in the Army's 1st Squadron, 12th Cavalry Regiment, 3rd Brigade, 1st Cavalry Division. He was only 22 years old, and will be laid to rest later this week.

Pueblo, CO, is known as the ''Home of Heroes.'' Pueblo hosts National Medal of Honor Day and has had as many as four living Medal of Honor recipients living in the community. In 1953, President Eisenhower joked to recipient Raymond G. ''Jerry'' Murphy, ''What is it . . . Something in the water out there in Pueblo? All you guys turn out to be heroes.''

President Eisenhower was not far off. There is something special in Pueblo—the brave sons and daughters, like Blake Harris, that have answered the call to service for this Nation and those that have given up their lives for the cause of freedom. They are heroes.

Unfortunately, we cannot bring back the heroes like Blake Harris. And, like so many of our Nation's soldiers that have made this ultimate sacrifice, Blake Harris was man of great courage and character who had his entire life ahead of him.

Blake met his wife Joanna at South High School, and while Blake was in Iraq they kept in contact every day. He graduated from South High in 2002 after spending 3 years in ROTC , and he followed in his father's footsteps by enlisting in the Army. He was in his second tour in Iraq and was stationed in Baghdad. Specialist Harris loved his job and was looking to become a career soldier, a man who dedicated his life to the service of his country.

After the assassination of American civil rights pioneer the Reverend Dr. Martin Luther King, Jr., Senator Robert Kennedy reflected upon the words of the Greek poet Aeschylus: ''Even in our sleep, pain which cannot forget falls drop by drop upon the heart, until, in our own despair, against our will, comes wisdom through the awful grace of God.''

To his wife Joanna and their son Jonah and Blake's parents John and Deborah, the prayers of our entire Nation are with you, today and always. Each and every American is humbled by the sacrifice made by Blake. He served with honor and distinction, and I hope that the pride in his service and memories you carry with you will help ease the grief you feel at his loss.

S. CON. RES. 20

Mr. DODD. Mr. President, I wish to take a moment to explain why I felt it necessary to vote against the Gregg resolution on Iraq, S. Con. Res. 20, when the Senate considered this and other measures related to Iraq on March 15, 2007.

The Bush administration and the Republican leadership in Congress have been making every effort until recently to avoid any real debate on Iraq and have, at each and every step of the way, supported the failed stay-the-course strategy by conflating Iraq with the war on terrorism and by propagating a false choice concerning Iraq: according to their logic, you either support the President or you harm the troops.

I firmly reject this false choice, as I rejected the Gregg resolution which was an attempt to validate that false choice.

There is no doubt that I and every other Member in this body will do all in our power to protect our troops while they are serving so bravely in Iraq or wherever else their political leaders decide to send them. That is why there was overwhelming Senate support for the Murray resolution, S. Res. 107, which we voted on prior to the Gregg resolution.

I would remind our colleagues that I have fought as hard as anyone in the Congress to ensure that our troops have the equipment and resources they need in Iraq—on some occasions over the objections of the administration and their congressional allies, I might add.

In 2003, the Army identified $322 million in shortfalls in critical health and safety gear—ranging from body armor, camelback hydration systems, and combat helmets to equipment for deactivating high-explosives—all priorities that the Rumsfeld Pentagon and Bush administration failed to provide for in their initial budgets. I offered an amendment to the emergency appropriations bill to resolve these problems. Unfortunately, the Bush administration opposed this legislation, and the amendment was defeated along party lines with the help of the very same Senators who are now claiming to be supporting our troops.

In 2004, we tried a different approach—requiring the Department of Defense to reimburse military personnel who bought equipment with their own funds for military service in Iraq and Afghanistan that the Rumsfeld Pentagon had failed to provide. This time, despite ardent objections of Secretary Rumsfeld's Pentagon, Congress approved the legislation in October 2004, President Bush signed the bill into law. We approved similar legislation in 2005 to further extend this benefit as troops, their families, and their communities continued to dig into their own pockets to buy needed lifesaving equipment for use on the battlefield.

Last year, the difficulties associated with equipment shortfalls posed a far more serious problem. I offered an amendment to address a $17 billion budget shortfall to replace and repair thousands of war-battered tanks, aircraft, and vehicles. Without these additional resources, the Army Chief of Staff claimed that U.S. Army readiness would deteriorate even further.

That said, still more remains to be done if the men and women on active duty, in the Reserves and National Guard are to be fully equipped and ready to defend our country. We need to make certain that our troops have the resources they need to stay ready to fight wherever and whenever duty calls. Regrettably, the war in Iraq is actually draining these resources and making us less safe. That is why I am going to work to continue restocking our troops' equipment inventories to restore their readiness and assure their protection.

Voting for a resolution expressing support for the troops is not the same as making concrete decisions to actually do so. Making sure they are fully equipped and that the mission they have been sent to do is achievable is a fundamental part of meaningfully supporting the troops. For me and many others in this body, our vote in support of the Reid resolution, S.J. Res 9, was a vote to support our troops by mandating a different direction in the current failed policy in Iraq, namely the phased redeployment of our combat troops from Iraq, and a narrowing of the mission for those who remain.

I will continue to stand up for what I believe is a necessary change in course in Iraq and in American strategy. I will continue to fight to reverse the President's failed policy which has made us less safe, which has created a safe haven for extremists and terrorists in Iraq, and which has undermined the moral and political standing of the United States around the world.

Most important, I will continue to stand up for our brave men and women in uniform. I will continue to fight for increased funding for body armor and other critical needs. I will continue to fight for funding for our military personnel to keep them safe and effective and to ensure they are not forgotten if they come home injured and in need of care.

I will continue to call for meaningful actions in this Congress to redirect funding away from major combat operations, while ensuring that we have the means and tools necessary to continue vital training and equipping of Iraqi security forces, counter terrorism operations, and the diplomatic, political, and economic offensive and strategies that are the key elements to finding a solution to the crisis in Iraq and in the wider region.

I refuse to be cowed or bullied by false choices. It is long overdue that we stand up to unreasonable arguments, conflated logic, attacks against dissent and debate, and most important, failed policies which are making our country less safe, each and every day.

HEALTHY FAMILIES ACT

Mr. KERRY. Mr. President, on Thursday, March 15, 2007, I proudly joined Senator KENNEDY as a cosponsor of the Healthy Families Act. This legislation will provide full-time employees with up to 7 paid sick days a year so that they can take care of their own medical needs or the medical needs of family members. Part-time employees would receive a pro-rata amount of paid sick leave. All employers—public and private—with at least 15 employees would be covered by the Healthy Families Act.

Today, 57 million workers in the United States do not have paid sick days. Thus, when faced with either a personal or family medical issue, they are forced to choose between caring for themselves or their loved ones and going to work to keep food on the table and a paycheck in the mail. This is not acceptable. People get sick every day. They should have the right to get medical treatment without jeopardizing their jobs or harming the people around them. The Healthy Families Act would guarantee them that right.

According to Harvard University's Global Working Families Project, 139 nations provide some sort of paid sick days; 177 of those nations guarantee at least a week of annual sick pay. The United States, however, has no such guarantee—the federal Family and Medical Leave Act provides only unpaid sick leave for serious personal or family illnesses. This lack of paid sick leave puts our Nation's workforce, both present and future, at risk.

As ranking member of the Committee on Small Business and Entrepreneurship, I am extremely conscious of the regulatory burden that our businesses face—particularly our small businesses. I believe that government should avoid weighing down small businesses with unnecessary regulations. However, the more I have examined this issue, the more obvious it becomes that this legislation benefits both employees and employers.

It does not take a rocket scientist to figure out that healthy employees are the key to a productive and vibrant economy. Healthy employees are more productive and often more efficient. But, without paid sick days, many employees will go to work rather than take time off to get regular preventative medical checkups or to recover from an attacking illness or to care for a sick child. Thus, they will get sick more often, and their illnesses will spread. Employees who opt to come to work when sick can make their condition worse or even spread their illness to coworkers. For a business, it is far more costly to cope with a depleted staff or to search for a replacement when an employee is suffering from an extended illness than it is to provide just 7 sick days. Providing employees with a small number of paid sick days is a simple and commonsense fix that will save businesses time and money.

In addition, I have heard that small businesses often complain that they want to offer this benefit but are unable to and need a level playing field. This legislation would offer them just that.

Mr. President, I hope my colleagues will take a look at the Healthy Families Act and will join me in cosponsoring it.

ASSAULT WEAPONS

Mr. LEVIN. Mr. President, the National Rifle Association leadership has stated repeatedly that a ban on assault weapons is ineffective and unnecessary. They assert that guns labeled as assault weapons are rarely used in violent crimes and that most people use them for hunting. However, despite these repeated assertions, the list of

people speaking out against assault weapons continues to grow.

Jim Zumbo, an outdoors entrepreneur who lives in a log cabin near Yellowstone National Park, has spent much of his life writing for prominent outdoor magazines, delivering lectures across the country and who starred in a highly rated TV show about big-game hunting. Jim has been an NRA member for 40 years, and, according to his Web site, has appeared with NRA officials in 70 cities across the country. This relationship changed drastically when Jim expressed his commonsense opinion on assault weapons.

Last month, after learning that some hunters were using assault weapons to hunt prairie dogs, Jim expressed his thoughts in his personal blog on the Outdoor Life magazine website. He wrote:

Maybe I'm a traditionalist, but I see no place for these weapons among our hunting fraternity. I'll go so far as to call them ''terrorist rifles.''

He continued by stating that in his:

. . . humble opinion, these things have no place in hunting. We don't need to be lumped into the group of people who terrorize the world with them, which is an obvious concern. I've always been comfortable with the statement that hunters don't use assault rifles. We've always been proud of our ''sporting firearms.''

The reaction from NRA officials was swift and callous. They immediately severed all ties with Mr. Zumbo. His TV program on the Outdoor Channel was canceled, and his longtime career with Outdoor Life magazine ended. In addition, many of his corporate ties to the biggest names in gun making, such as Remington Arms Co., were terminated.

Jim Zumbo has worked for years to improve the image of outdoorsmen. As he put it:

As hunters, we don't need the image of walking around the woods carrying one of these weapons. To most of the public, an assault rifle is a terrifying thing. Let's divorce ourselves from them. I say game departments should ban them from the prairies and woods.

We all owe Jim Zumbo a debt of gratitude for his forthrightness, his honesty and his courage. We must put the safety of our communities first by taking up and passing sensible gun legislation that includes renewing the assault weapons ban.

ADDITIONAL STATEMENTS

CONGRATULATING GLENN MEANS III AND REBECCA SCHWAGER

● Mr. BUNNING. Mr. President, I would like to congratulate and honor two young Kentucky students who have achieved national recognition for exemplary volunteer service in their communities. Glenn Means III of Mount Sterling and Rebecca Schwager of Louisville have just been named the top two honorees in Kentucky by the 2007 Prudential Spirit of Community Awards program, an annual honor conferred on the most impressive student volunteers in each State and the District of Columbia. This award was created by Prudential Financial in partnership with the National Association of Secondary Principals.

Mr. Means, a senior at Montgomery County High School, is being recognized for starting ''Helping Older People Smile, HOPS.'' This youth-senior friendship club is a program that pairs young volunteers with nursing home patients for weekly visits. Mr. Means has paired more than 120 residents with middle and high school students since its founding.

Miss Schwager, an eighth-grader at St. Francis of Assisi Catholic School, is being recognized for helping to raise thousands of dollars to benefit genocide victims in Darfur, Sudan as the co-chair of her school's Committee on Conscience. She also volunteers as a tutor and mentor for immigrant and refugee children at Arcadia Community Center.

In light of numerous statistics that indicate Americans today are less involved in their communities than they once were, it is vital that we encourage and support the kind of selfless contribution these young citizens have made. Young volunteers like Mr. Means and Miss Schwager are inspiring examples to all of us, and are among our brightest hopes for a better tomorrow.

Mr. Means and Miss Schwager should be extremely proud to have been singled out from such a large group of dedicated volunteers. I heartily applaud Mr. Means and Miss Schwager for their initiative in seeking to make their communities a better place to live, and for the positive impact they have had on the lives of others.

All of these young people have demonstrated a level of commitment and accomplishment that is truly extraordinary in today's world, and deserve our sincere admiration and respect. They serve as an example to the Commonwealth and show the best of community service that Kentucky has to offer.●

IN HONOR OF DOUGLAS K. O'CONNELL

● Mr. LIEBERMAN. Mr. President, today I honor Douglas K. O'Connell, a recipient of the 2007 Rotary Paul Harris Award. The world's first service club, The Rotary Club of Chicago, IL, was formed in 1905 by Paul P. Harris, an attorney who wished to recapture in a professional club the same friendly spirit he had felt in the small towns of his youth. As Rotary grew, its mission expanded to help serve communities in need around the world. Today, 1.2 million Rotarians belong to some 32,000 Rotary clubs in more than 200 countries. Local Rotarians constantly pool their resources and contribute their talents to help serve their local communities and address such pressing issues as illiteracy, environmental degradation, world hunger, and children at risk.

For over 20 years, Mr. O'Connell has donated countless hours of community service to the northwest corner of Connecticut. Through his work with the Winsted Chapter of Rotary, United Way, the YMCA, as a volunteer basketball coach, and a dedicated member of the Torrington Board of Education, Mr. O'Connell has made a longlasting impact on his community.

Mr. O'Connell embodies Rotary's principal motto: ''Service Above Self.'' Mr. O'Connell, a talented attorney himself, is receiving the Paul Harris Award in appreciation of his tangible and significant assistance given for the furtherance of a better understanding and friendly relations between the peoples of the world in the true spirit of Rotary.●

MESSAGES FROM THE PRESIDENT

The following messages from the President of the United States were transmitted to the Senate by one of his secretaries:

REPORT RELATIVE TO HAITI MEETING THE CONDITIONS REGARDING ENFORCEMENT OF CIRCUMVENTION UNDER SECTION 213A(e)(1) OF THE CARIBBEAN BASIN ECONOMY RECOVERY ACT—PM 10

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

The Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (Division D, Title V of Public Law 109–432), amends the Caribbean Basin Economic Recovery Act (Title II of the Trade and Development Act of 2000, Public Law 106–200) (CBERA), to make certain products from Haiti eligible for preferential tariff treatment. In accordance with section 213A of CBERA, as amended, I have determined that Haiti meets the eligibility requirements under section 213A(d)(1) of CBERA, as amended, and that Haiti is meeting the conditions regarding enforcement of circumvention under section 213A(e)(1) of CBERA, as amended.

GEORGE W. BUSH.
THE WHITE HOUSE, *March 19, 2007*.

REPORT RELATIVE TO THE SUPPLEMENTARY AGREEMENT ON SOCIAL SECURITY BETWEEN THE UNITED STATES AND SWEDEN—PM 11

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying

report; which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (42 U.S.C. 433(d)(1)), I transmit herewith the Supplementary Agreement on Social Security between the United States of America and the Kingdom of Sweden. The Supplementary Agreement was signed in Stockholm on June 22, 2004, and is intended to modify certain provisions of the original United States-Sweden Agreement, which was signed May 27, 1985, and that entered into force January 1, 1987.

The United States-Sweden Agreement, as revised by the Supplementary Agreement, remains similar in objective to the social security agreements that are also in force with Australia, Austria, Belgium, Canada, Chile, Finland, France, Germany, Greece, Ireland, Italy, Korea, Luxembourg, the Netherlands, Norway, Portugal, Spain, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to eliminate dual social security coverage and taxation, and to help prevent the loss of benefits that can occur when workers divide their careers between two countries. The United States-Sweden Agreement, as revised by the Supplementary Agreement, contains all provisions mandated by section 233 and other provisions that I deem appropriate to carry out the purposes of section 233, pursuant to section 233(c)(4).

I also transmit for the information of the Congress a report prepared by the Social Security Administration explaining the key points of the Supplementary Agreement with a paragraph-by-paragraph explanation of the provisions of the Supplementary Agreement. Annexed to this report is the report required by section 233(e)(1) of the Social Security Act on the effect of the Supplementary Agreement on income and expenditures of the U.S. Social Security program and the number of individuals affected by the Supplementary Agreement and a composite text of the United States-Sweden Agreement showing the changes that will be made as a result of the Supplementary Agreement. The Department of State and the Social Security Administration have recommended the Supplementary Agreement and related documents to me.

I commend to the Congress the Supplementary Agreement to the United States-Sweden Social Security Agreement and related documents.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 20, 2007.*

MESSAGE FROM THE HOUSE

At 3:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 658. An act to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System, and for other purposes.

H.R. 838. An act to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes.

H.R. 839. An act to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized.

H.R. 902. An act to facilitate the use for irrigation and other purposes of water produced in connection with development of energy resources.

H.R. 1006. An act to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes.

H.R. 1021. An act to direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 658. An act to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 838. An act to provide for the conveyance of the Bureau of Land Management parcels known as the White Acre and Gambel Oak properties and related real property to Park City, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 839. An act to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized; to the Committee on Energy and Natural Resources.

H.R. 902. An act to facilitate the use for irrigation and other purposes of water produced in connection with development of energy resources; to the Committee on Energy and Natural Resources.

H.R. 1006. An act to amend the provisions of law relating to the John H. Prescott Marine Mammal Rescue Assistance Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1021. An act to direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

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–1117. A communication from the Chairman, Office of Proceedings, Surface Transportation Board, transmitting, pursuant to law, the report of a rule entitled ''Rail Fuel Surcharges'' (STB Ex Parte No. 661) received on March 15, 2007; to the Committee on Commerce, Science, and Transportation.

EC–1118. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the benefits of economic dispatch of generating facilities; to the Committee on Energy and Natural Resources.

EC–1119. A communication from the Office Director, Office of Congressional Affairs, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Design Basis Threat'' (RIN3150–AH60) received on March 19, 2007; to the Committee on Environment and Public Works.

EC–1120. 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 ''Request for Comments and Interim Guidance Regarding Allocation of Costs Under the Simplified Methods of Accounting Under section 263A'' (Notice 2007–29) received on March 15, 2007; to the Committee on Finance.

EC–1121. 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 ''Weighted Average Interest Rate Update'' (Notice 2007–27) received on March 15, 2007; to the Committee on Finance.

EC–1122. 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 ''Bureau of Labor Statistics Price Indexes for Department Stores—January 2007'' (Notice 2007–18) received on March 15, 2007; to the Committee on Finance.

EC–1123. A communication from the Secretary of Health and Human Services, transmitting, the report of a draft bill entitled ''Prescription Drug User Fee Amendments of 2007''; to the Committee on Health, Education, Labor, and Pensions.

EC–1124. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the status of the Assets for Independence Program; to the Committee on Health, Education, Labor, and Pensions.

EC–1125. A communication from the Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Administrative Law Judge Program—Examining System and Programs for Specific Positions and Examinations (Miscellaneous)'' (RIN3206–AK86) received on March 16, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–1126. A communication from the Director, Bureau of Indian Education, Department of the Interior, transmitting, pursuant to law, a report relative to the Personnel System Demonstration Projects; to the Committee on Indian Affairs.

EC–1127. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Establishment of the Snake River Valley Viticultural

Area'' (RIN1513–AB22) received on March 16, 2007; to the Committee on the Judiciary.

EC–1128. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Tennessee Advisory Committee; to the Committee on the Judiciary.

EC–1129. A communication from the Deputy Secretary of Veterans Affairs and Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report relative to the activities and accomplishments of the Joint Executive Committee of the Departments; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–25. A concurrent resolution adopted by the Legislature of the State of Kansas relative to supporting the National Bio and Agrodefense Facility; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 5009

Whereas, Homeland Security Presidential Directive 9 has tasked the Secretary of the Department of Homeland Security to coordinate ''countermeasure research and development of new methods for detection, prevention technologies, agent characterization, and dose relationships for high-consequence agents;'' and

Whereas, at present there are no facilities in the United States that have adequate containment, security, equipment and infrastructure to meet the requirements identified in Presidential Directive 9; and

Whereas, to meet this need, the Department of Homeland Security and its federal partners initiated plans for a National Bio and Agrodefense Facility (NBAF); and

Whereas, the NBAF will enhance protection from both natural and intentional threats by modernizing and integrating high-biosecurity facilities, thus enhancing our nation's capacity to assess potential threats to humans and animals alike; and

Whereas, the Department of Homeland Security is seeking a location to build the $451 million, 500,000 square foot, NBAF facility; and

Whereas, the State of Kansas pledges its support for the funding and construction of the NBAF to address the needs of Kansas and the nation to protect human and animal health from both naturally occurring and intentionally introduced disease threats; and

Whereas, Kansas is the ideal location for the NBAF. Kansas is a world leader in bioscience, especially in the areas of animal health and vaccines, infectious diseases and food safety, and has an exceptionally well qualified workforce; and

Whereas, two sites in Kansas, one in Manhattan and one in Leavenworth, are actively under consideration by the Department of Homeland Security to site the NBAF facility; and

Whereas, the State of Kansas has already demonstrated its strong support for the siting of the NBAF in Kansas, as Governor Kathleen Sebelius and the Kansas Bioscience Authority have taken the initiative to create a task force of prominent industry leaders, public officials, including the entire Kansas Congressional Delegation, representatives from the Kansas Legislature, producer groups and leaders of prominent academic institutions to lead Kansas' bids for the NBAF; and

Whereas, the State of Kansas has a long-standing commitment of supporting biosecurity research in partnership with the federal government. Most recently, Kansas and the federal government invested $54 million in the nation's most modern biosecurity laboratory, the Biosecurity Research Institute at Kansas State University: Now, therefore, Be it

Resolved by the House of Representatives of the State of Kansas, the Senate concurring therein, That the Kansas Legislature pledges its support for Kansas State University, the City of Manhattan and the City of Leavenworth in their bids to site the U.S. Department of Homeland Security's National Bio and Agrodefense Facility, and that the Legislature commits to do everything in its power and ability to provide any support necessary in or for the NBAF to be constructed in Kansas; and be it further

Resolved, That the Kansas Legislature strongly encourages the U.S. Department of Homeland Security to consider Kansas' existing building and security infrastructure, and the human resources already in place that make Kansas a natural fit for the location of this new federal laboratory; and be it further

Resolved, That the Secretary of State be directed to send enrolled copies of this resolution to President Bush, Vice President Cheney, Secretary Chertoff of the U.S. Department of Homeland Security, Secretary Johanns of the U.S. Department of Agriculture, Secretary Leavitt of the U.S. Department of Health and Human Services, each member of the Kansas Congressional Delegation and Governor Kathleen Sebelius.

POM–26. A joint resolution adopted by the Legislature of the State of Idaho relative to forest land management; to the Committee on Energy and Natural Resources.

Whereas, the United States Forest Service administers the management of 39% of the land base in the state of Idaho, and an additional 22% is administered by the United States Bureau of Land Management; and

Whereas, pursuant to 16 U.S.C. Section 471, an 1891 law authorizing the President to establish national forests, the purpose for establishing and administering national forests was to set aside public lands reserved as national forests to be controlled and administered, to the extent practical, in accordance with the Act which provided that ''no national forest may be established except to improve and protect the forest, or to secure favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens''; and

Whereas, it has long been the intent and policy of the federal government to hold rural communities harmless from the creation of federal lands and in 1906 the Committee on Public Lands recognized that the presence of federal lands could create a hardship for many counties, as they provided little revenue or commerce at that time; and

Whereas, in 1908 Congress created the Twenty-five Percent Fund Act to pay states and counties 25 percent of receipts collected from national forests and mandated that payments were to be spent on schools and roads, recognizing that viable communities adjacent to the public lands, with adequate roads and schools, were essential for the development and preservation of the national forests; and

Whereas, the federal policy of holding counties harmless from the creation of public lands within counties was reiterated in 1916 with the creation of the Oregon and California Grant Lands under the Chamberlain-Ferris Act, and again in 1937 with passage of the Oregon and California Grant Lands Act; and

Whereas, the forest resources were intended to be managed in such an environmentally responsible manner that they would produce long-term sustainable revenue to share with schools and counties as well as products for the nation; and

WHEREAS, in 2000, Congress passed the Secure Rural Schools and Community Self-Determination Act, commonly known as public law 106–393, which restored historical payment levels previously made to states and counties from the federal government for road and school purposes due to declining levels of actual forest receipts; and

Whereas, the reauthorization of public law 106–393 is pending before the United States Congress and Idaho counties are on record as being strongly supportive of a fully-funded approval of this Act; and

Whereas, recently, federal land managers have been faced with an ever-present funding shortage and rural counties will be faced with higher property taxes or a reduction in services if the Secure Rural Schools and Community Self-Determination Act is not reauthorized and appropriated; and

Whereas, there is continued concern that if the Act is reauthorized and appropriated it may be the last time it occurs and a long-term solution to these issues is necessary; and

Whereas, the state of Idaho is dependent upon healthy national forest system lands for economic benefit, recreation and scenic beauty and it is time to demonstrate a new initiative and commitment to the intent and policy of the federal government to hold counties and schools harmless from the creation of federal lands and construct a path leading to economic stability for rural communities and schools; and

Whereas, transfer of the management of the national forest system lands that are not designated as wilderness, proposed or recommended wilderness, wild and scenic river, or national recreation area, or designated roadless area in Idaho, to the state of Idaho would promote better stewardship of the public lands, provide financial returns to the counties, secure public access, meet Congress's intent to hold rural communities harmless from the creation of federal lands, and fund schools, road and bridge infrastructure which would offset significant tax increases in rural counties in the event the Secure Rural Schools payments are not reauthorized or are allowed to expire following the 2006 reauthorization; and

Whereas, precedent for state administration of federally-owned lands exists in the state of Idaho at the City of Rocks area in southern Idaho and campground-related facilities and land at Lake Cascade; and

Whereas, a transfer of management to the state of Idaho would demonstrate a new initiative and commitment to the intent and policy of the federal government to hold rural counties and schools harmless from the consequences of the reservation of federal lands and construct a process leading to economic stability for rural communities and schools; and

Whereas, lands for which management responsibility is transferred to the state of Idaho could administered by the Idaho Department of Lands in cooperation with county officials and with cooperative oversight by the United States. Forest Service and state and local government could establish, or use existing natural resource advisory committees composed of a diverse cross-section of the public, with all decisions and actions relating to the lands being required to comply with every federal and state environmental law; and

Whereas, the management of these lands would have to meet the mandates of the Healthy Forest Initiative, the National Fire Plan, and state and county fire mitigation plans. Now, therefore, be it

Resolved by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, That we urge the Congress to support federal legislation transferring management of national forest system lands within Idaho to the state of Idaho to be managed for the benefit of the rural counties and schools with the state of Idaho being held harmless from the costs of administration; and be it further

Resolved, That Congress is urged to provide that any transfer of management authority would not affect any rights or authority of the state with respect to fish and wildlife, or repeal or modify any provision of law that permits the state or political subdivisions of the state to share in the revenues from federal lands, or any provision of law that provides that fees or charges collected at particular federal areas be used for or credited to specific purposes or special funds, and be it further

Resolved, That Congress is urged to provide that fees or revenues collected under state management be allocated 75%, or other appropriate percentage, for the benefit of the counties and schools in which the national forest system lands are located and 25%, or other appropriate percentage, for the benefit of the national forest in which the lands administered by the state of Idaho are located to be paid at the end of the year to the Secretary of the Treasury, and that amounts allocated to the counties should not be taken into account for purposes of the Twenty-five Percent Fund pursuant to 16 U.S.C. Section 500; and be it further

Resolved, That Congress is urged to seek a long-term solution to the significant issues that will face rural counties in the event the Secure Rural Schools payments are not reauthorized or are allowed to expire following the 2006 reauthorization; and be it further

Resolved, that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM–27. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Idaho relative to the authorization of a study of the decline in receipts on national forest system lands; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 26

Be It Resolved by the Legislature of the State of Idaho:

Whereas, it has long been the intent and policy of the federal government to hold rural communities harmless from the creation of federal lands and in 1906 the Committee on Public Lands recognized that the presence of federal lands could create hardship for many counties as they provided little revenue or commerce at that time; and

Whereas, in 1908, the federal government promised rural counties twenty-five percent of all revenues generated from the multiple-use management of the newly created national forests to support public roads and public schools; and

Whereas, in recent decades, the forest resources have not been managed in a manner to produce long-term sustainable revenue to share with schools and counties; and

Whereas, in 2000, Congress passed Public Law 106–393, the Secure Rural Schools and Community Self-Determination Act. The Act restored historical payment levels previously made to states and counties from the federal government for road and school purposes because of declining levels of actual forest receipts; and

Whereas, the reauthorization and appropriation of the Secure Rural Schools and Community Self-Determination Act is pending before the United States Congress, and Idaho counties are on record as being strongly supportive of a fully funded approval of this Act; and

Whereas, federal land managers continue to be faced with funding shortages. In the event the Secure Rural Schools and Community Self-Determination Act is not reauthorized and appropriated, counties will be faced with higher property taxes or a reduction in services and even if the Act is reauthorized and appropriated, it will likely be the last time, and the state of Idaho must seek a long-term solution; and

Whereas, in 2006, House Joint Memorial No. 21 was adopted by the members of the Second Regular Session of the Fifty-eighth Idaho Legislature to provide one option to address the problem of declining forest receipts by urging Congress to support federal legislation transferring management of National Forest System lands within Idaho to the state of Idaho to be managed for the benefit of the rural counties and schools. Now, therefore, be it

Resolved by the members of the First Regular Session of the Fifty-ninth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislative Council is authorized to appoint an interim committee to undertake and complete an assessment of the decline in receipts on National Forest System lands, which have historically been shared with counties, with the goal of the interim committee's recommendations being to develop a federal, bipartisan, long-term solution that addresses sustainable management of federal forest lands to stabilize payments to Idaho's forest counties, which help support roads and schools, and to provide projects that enhance forest ecosystem health and provide employment opportunities, and to improve cooperative relationships among those who use and care about the lands the agencies manage. The Legislative Council shall determine the membership from each house appointed to the interim committee and shall authorize the interim committee to receive input, advice and assistance from interested and affected parties who are not members of the Legislature. As much as is practicable, the interim committee shall work in cooperation and coordination with the state of Idaho, its counties, its school and highway districts, along with the recognized Indian tribes of the state of Idaho. The interim committee is also authorized to retain the services of consultants, within appropriated moneys, who are familiar with forest receipts, and who can provide necessary economic and other research to assist the interim committee and the Legislature in making an informed decision on this most important topic. Now, therefore, be it further

Resolved, That the Idaho legislative interim committee on forest receipts will address National Forest System lands, but only those lands that do not have special designations. The interim committee is directed to formulate a solution that will protect all valid existing rights, existing public access and activities, including hunting, fishing and recreation, and that will not be construed to interfere with treaties or any other obligations to the Indian tribes, commitments to county governments, or the General Mining Law or Taylor Grazing Act. Now, therefore be it further

Resolved, That nonlegislative members of the interim committee may be appointed by the cochairs of the interim committee who are appointed by the Legislative Council. Nonlegislative members of the interim committee shall not be reimbursed from legislative funds for per diem, mileage or other expenses and shall not have voting privileges regarding the interim committee's recommendations or proposed legislation. Now, therefore, be it further

Resolved, That the interim committee shall report its findings, recommendations and proposed legislation, if any, to the Second Regular Session of the Fifty-ninth Idaho Legislature.

POM–28. A resolution adopted by the Senate of the State of Arizona urging Congress to enact legislation repealing the privacy violations contained in the REAL ID Act of 2005; to the Committee on the Judiciary.

SENATE MEMORIAL 1003

Whereas, in May 2005, the United States Congress enacted the REAL ID Act of 2005 (REAL ID Act) as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act (Public Law 109–13), which was signed by President Bush on May 11, 2005 and which becomes fully effective May 11, 2008; and

Whereas, some of the requirements of the REAL ID Act are that states must issue driver licenses and state identification cards in a uniform format as prescribed by the Department of Homeland Security; must verify the issuance, validity and completeness of all primary documents used to issue a driver license, and provide for their secure storage: must provide fraudulent document recognition training to persons who issue driver licenses or state identification cards; and must issue a driver license or state identification card in a prescribed format if it does not meet the criteria provided for a federally approved license or identification card; and

Whereas, use of the federal minimum standards for state driver licenses and identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed; and

Whereas, some of the intended privacy requirements of the REAL ID Act, such as the use of common machine-readable technology and state maintenance of a database that can be shared with the United States and agencies of other states may actually make it more likely that a federally required driver license or state identification card or the information about the bearer on which the license or card is based will be stolen, sold or otherwise used for purposes that were never intended or that are criminally related than if the REAL ID Act had not been enacted; and

Whereas, these potential breaches in privacy that could result directly from compliance with the REAL ID Act may violate the right to privacy of thousands of residents of Arizona; and

Whereas, the American Association of Motor Vehicle Administrators, the National Governors' Association and the National Conference of State Legislatures have estimated that the cost to the states to implement the REAL ID Act will be more than $11 billion over five years; and

Whereas, the mandate to the states, through federal legislation that provides no funding for its requirements, to issue what is effectively a national identification card appears to be an attempt to commandeer the political machinery of the states and to require them to be agents of the federal government, in violation of the principles of federalism contained in the tenth amendment to the United States Constitution; and

Whereas, some states have enacted legislation that opposes the implementation of the REAL ID Act.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

1. That the Congress of the United States take immediate action to enact legislation to correct the unfunded mandate on the states resulting from the passage of the REAL ID Act of 2005, as outlined in this Memorial.

2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM–29. A request by the Board of County Supervisors of the County of Prince William of the State of Virginia for Congress to reimburse the County for the costs of serving illegal immigrants; to the Committee on the Judiciary.

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. MENENDEZ (for himself, Mrs. BOXER, Mr. KERRY, Mr. CARDIN, and Mr. LAUTENBERG):

S. 919. A bill to reauthorize Department of Agriculture conservation and energy programs and certain other programs of the Department, to modify the operation and administration of these programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REED (for himself and Mr. WHITEHOUSE):

S. 920. A bill to provide wage parity for certain prevailing rate employees in Rhode Island; to the Committee on Homeland Security and Governmental Affairs.

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 921. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes; to the Committee on Finance.

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

S. 922. A bill to extend the existing provisions regarding the eligibility for essential air service subsidies through fiscal year 2012; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY:

S. 923. A bill to amend the National Trails System Act to designate the New England National Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. CANTWELL (for herself and Ms. SNOWE):

S. 924. A bill to strengthen the United States Coast Guard's Integrated Deepwater Program; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 925. A bill to provide for funding assistance under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) to a State or local government for the acquisition of real property for the purpose of the replacement of certain public facilities based on reasonable reliance of cost estimates provided by the Federal Emergency Management Agency; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 926. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds by property and casualty insurance companies for the payment of policyholders' claims arising from future catastrophic events; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 927. A bill to amend the Internal Revenue Code of 1986 to create Catastrophe Savings Accounts; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 928. A bill to establish a program to provide more protection at lower cost through a national backstop for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, to better assist in the financial recovery from such catastrophes, and to develop a rigorous process of continuous improvement; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MARTINEZ (for himself and Mr. NELSON of Florida):

S. 929. A bill to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MARTINEZ (for himself and Mr. NELSON of Florida):

S. 930. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for hurricane and tornado mitigation expenditures; to the Committee on Finance.

By Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mrs. DOLE, and Ms. LANDRIEU):

S. 931. A bill to establish the National Hurricane Research Initiative to improve hurricane preparedness, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. LINCOLN (for herself, Mr. SPECTER, Mr. MENENDEZ, Mr. ENSIGN, Mr. HARKIN, Mr. BURR, and Mr. GRAHAM):

S. 932. A bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 933. A bill for the relief of Joseph Gabra and Sharon Kamel; to the Committee on the Judiciary.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 934. A bill to amend the Florida National Forest Land Management Act of 2003 to authorize the conveyance of an additional tract of National Forest System land under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. BINGAMAN, Ms. MIKULSKI, Mrs. LINCOLN, Mr. BIDEN, Mr. VITTER, Mr. DOMENICI, Mr. KERRY, Mr. MARTINEZ, Mr. SALAZAR, Ms. SNOWE, Mr. BROWN, Mrs. FEINSTEIN, Mrs. MURRAY, and Mrs. CLINTON):

S. 935. A bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes; to the Committee on Armed Services.

By Mr. DURBIN (for himself and Mr. SPECTER):

S. 936. A bill to reform the financing of Senate elections, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. ALLARD):

S. 937. A bill to improve support and services for individuals with autism and their families; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, and Mr. SANDERS):

S. 938. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mrs. MURRAY, and Mr. SANDERS):

S. 939. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS (for himself, Mr. HATCH, and Mr. CRAPO):

S. 940. A bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing income; to the Committee on Finance.

By Mr. SANDERS (for himself and Ms. MURKOWSKI):

S. 941. A bill to increase Federal support for Community Health Centers and the National Health Service Corps in order to ensure access to health care for millions of Americans living in medically-underserved areas; to the Committee on Health, Education, Labor, and Pensions.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 942. A bill to modify the boundaries for a certain empowerment zone designation; to the Committee on Finance.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 943. A bill to amend the Internal Revenue Code of 1986 to extend the period for which the designation of an area as an empowerment zone is in effect; to the Committee on Finance.

By Mr. THUNE:

S. 944. A bill to require that an independent review of the efficiency and effectiveness of all headquarters offices of the Farm Service Agency of the Department of Agriculture be carried out prior to the closure of any county offices; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself and Mr. COLEMAN):

S. 945. A bill to ensure that college textbooks and supplemental materials are available and affordable; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER (for himself and Mr. CRAPO):

S. Res. 112. A resolution designating April 6, 2007, as ''National Missing Persons Day''; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. PRYOR, Ms. COLLINS, and Mr. DORGAN):

S. Res. 113. A resolution commending the achievements and recognizing the importance of the Alliance to Save Energy on the 30th anniversary of the incorporation of the Alliance; considered and agreed to.

ADDITIONAL COSPONSORS

S. 214

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 214, a bill to amend chapter 35 of title 28, United States Code, to preserve the independence of United States attorneys.

S. 284

At the request of Mr. CONRAD, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 284, a bill to provide emergency agricultural disaster assistance.

S. 292

At the request of Mr. NELSON of Florida, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 292, a bill to establish a bipartisan commission on insurance reform.

S. 326

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 326, a bill to amend the Internal Revenue Code of 1986 to provide a special period of limitation when uniformed services retirement pay is reduced as result of award of disability compensation.

S. 329

At the request of Mrs. LINCOLN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 329, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 336

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 336, a bill to require the Secretary of the Army to operate and maintain as a system the Chicago Sanitary and Ship Canal dispersal barriers, and for other purposes.

S. 340

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 340, a bill to improve agricultural job opportunities, benefits, and security for aliens in the United States and for other purposes.

S. 358

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 358, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 358, supra.

S. 359

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 359, a bill to amend the Higher Education Act of 1965 to provide additional support to students.

S. 388

At the request of Mr. THUNE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 388, a bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in the State.

S. 411

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 411, a bill to amend the Internal Revenue Code of 1986 to provide credit rate parity for all renewable resources under the electricity production credit.

S. 431

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 431, a bill to require convicted sex offenders to register online identifiers, and for other purposes.

S. 439

At the request of Mr. REID, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 439, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 458

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 458, a bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program.

S. 474

At the request of Mrs. HUTCHISON, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 474, a bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.

S. 519

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 519, a bill to modernize and expand the reporting requirements relating to child pornography, to expand cooperation in combating child pornography, and for other purposes.

S. 558

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 558, a bill to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 602, a bill to develop the next generation of parental control technology.

S. 604

At the request of Mr. LAUTENBERG, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 604, a bill to amend title 10, United States Code, to limit increases in the certain costs of health care services under the health care programs of the Department of Defense, and for other purposes.

S. 625

At the request of Mr. KENNEDY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 625, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 626

At the request of Mr. KENNEDY, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Utah (Mr. BENNETT) were added as cosponsors of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 627

At the request of Mr. HARKIN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 627, a bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to improve the health and well-being of maltreated infants and toddlers through the creation of a National Court Teams Resource Center, to assist local Court Teams, and for other purposes.

S. 638

At the request of Mr. ROBERTS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 656

At the request of Mr. REED, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 664

At the request of Ms. LANDRIEU, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 664, a bill to provide adequate funding for local governments harmed by Hurricane Katrina of 2005 or Hurricane Rita of 2005.

S. 667

At the request of Mrs. CLINTON, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 667, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 678

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 678, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier and are not unnecessarily held on a grounded air carrier before or after a flight, and for other purposes.

S. 719

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 719, a bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board.

S. 721

At the request of Mr. ENZI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 721, a bill to allow travel between the United States and Cuba.

S. 731

At the request of Mr. SALAZAR, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 731, a bill to develop a methodology for, and complete, a national assessment of geological storage capacity for carbon dioxide, and for other purposes.

S. 773

At the request of Mr. WARNER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 778

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 778, a bill to amend title IV of the Elementary and Secondary Education Act of 1965 in order to authorize the Secretary of Education to award competitive grants to eligible entities to recruit, select, train, and support Expanded Learning and After-School Fellows that will strengthen expanded learning initiatives, 21st century community learning center programs, and after-school programs, and for other purposes.

S. 787

At the request of Mr. MARTINEZ, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 787, a bill to impose a 2-year moratorium on implementation of a proposed rule relating to the Federal-State financial partnerships under Medicaid and the State Children's Health Insurance Program.

S. 791

At the request of Mr. LEVIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 791, a bill to establish a collaborative program to protect the Great Lakes, and for other purposes.

S. 793

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 793, a bill to provide for the expansion and improvement of traumatic brain injury programs.

S. 819

At the request of Mr. DORGAN, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 819, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 823

At the request of Mr. OBAMA, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 823, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV/AIDS and other diseases, and for other purposes.

S. 887

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 887, a bill to restore import and entry agricultural inspection functions to the Department of Agriculture.

S. 897

At the request of Ms. MIKULSKI, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 897, a bill to amend the Internal Revenue Code of 1986 to provide more help to Alzheimer's disease caregivers.

S. 898

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Connecticut (Mr. DODD) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 898, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 902

At the request of Mr. HARKIN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 902, a bill to provide support and assistance for families of members of the National Guard and Reserve who are undergoing deployment, and for other purposes.

S. 907

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 907, a bill to establish an Advisory Committee on Gestational Diabetes, to provide grants to better understand and reduce gestational diabetes, and for other purposes.

S. CON. RES. 9

At the request of Ms. LANDRIEU, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. Con. Res. 9, a concurrent resolution celebrating the contributions of the architectural profession during ''National Architecture Week''.

S. RES. 106

At the request of Mr. ENSIGN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Res. 106, a resolution calling on the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

S. RES. 110

At the request of Mr. LUGAR, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 110, a resolution expressing the sense of the Senate regarding the 30th Anniversary of ASEAN-United States dialogue and relationship.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MENENDEZ (for himself, Mrs. BOXER, Mr. KERRY, Mr. CARDIN, and Mr. LAUTENBERG):

S. 919. A bill to reauthorize Department of Agriculture conservation and energy programs and certain other programs of the Department, to modify the operation and administration of these programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. MENENDEZ. Mr. President, I rise today along with several of my colleagues to introduce the Healthy Farms, Foods, and Fuels Act of 2007. I am also proud to be joined in this effort by my friend and former colleague, Representative RON KIND of Wisconsin, who is introducing this legislation today in the House of Representatives.

This legislation is crucial because we have a tremendous opportunity this year to set a healthier course for American agriculture. To allow our farmers, ranchers, and foresters to thrive while giving them the tools they need to meet our environmental and energy challenges; to open up new markets and opportunities for our small farmers; and to provide consumers and schoolchildren with more fresh fruits and vegetables, and make it easier for low-income Americans and the elderly to have access to healthier foods.

Like all legislation, a Farm Bill is a statement of priorities and of values. And the Healthy Farms, Foods, and Fuels Act embodies many of the priorities and values that I believe we as a nation should be focused on.

Although many people are not aware of New Jersey's thriving agricultural sector, the fact is that we are the Garden State, and a healthy agricultural sector nationwide—one that addresses the needs of all of our farmers, whether

they grow corn in the Midwest or blueberries in the Mid-Atlantic—is essential for New Jersey to remain the Garden State.

However, New Jersey's farmers are under a tremendous amount of pressure. They operate in a very high-cost environment and see development encroaching on their farms from all sides. Conservation programs are crucial to the survival of agriculture in the Garden State, as well as for the protection of sensitive wetlands and animal habitats, which is why the Healthy Farms bill increases funding and expands eligibility for the Environment Quality Incentives Program, Conservation Reserve Program, Conservation Security Program, Farmland and Ranchland Protection Program, Wetlands Reserve Program, and Wildlife Habitat Incentive Program.

New Jersey's farmers are also among the most prolific in the country in growing fruits and vegetables, yet they are often just a few miles from distressed communities where children struggle for access to nutritious food. That's why the Healthy Farms bill expands the Fresh Fruit and Vegetable Program to schools in all states, giving more children access to healthy snacks. The bill also expands the Farmers Market Promotion Program, and provides additional funding for programs that allow seniors and low-income families to obtain food at farmers markets. Not only do these programs help people eat healthier, they provide an additional market for local farmers.

This bill is, of course, just the start of this conversation. As we move forward this year, we must work together on issues of farm profitability, entrepreneurship and innovation, toward a Farm Bill that emphasizes flexibility, efficiency and equitable distribution of government programs. This will help to ensure success for our farm family enterprises and the wider community of Farm Bill beneficiaries, both large and small, near urbanized areas and in more rural settings, throughout all regions of the country.

Ideally, an emphasis on the diversity of agricultural and related businesses, their interaction with the citizens who are their ultimate customers, and the role these enterprises play in addressing issues of nutrition, hunger and economic growth throughout our nation will join with conservation and environmental issues to form a comprehensive Farm Bill that will serve the nation well for the next five years and beyond.

By Mr. REED (for himself and Mr. WHITEHOUSE):

S. 920. A bill to provide wage parity for certain prevailing rate employees in Rhode Island; to the Committee on Homeland Security and Governmental Affairs.

Mr. REED. Mr. President, today I address an issue of critical importance to Rhode Island's Federal Wage System employees.

Federal Wage System (FWS) employees are the Federal Government's blue-collar employees. In Rhode Island, these workers include janitors, mechanics, machine tool operators, munitions and explosive operators, electricians, and engineers. The majority of FWS employees in the United States work in the Department of Defense or the Department of Veterans Affairs. Indeed, Naval Station Newport employs the most FWS workers in the Narragansett Bay area. These workers are essential to the government's daily operation, and the work that they perform is important to our national security.

Regrettably, in the Narragansett Bay wage area, Federal blue-collar workers are faced with one of the lowest FWS pay scales, while residing in an area with one of the highest costs of living. The significant disparities between wages in the Narragansett Bay wage area and the proximate Boston and Hartford wage areas raise serious questions about the fairness and equity of these pay scales. In Rhode Island, an average wage grade worker earns $18.47 per hour, whereas the same worker in Boston earns $20.77 per hour and an employee in Hartford earns $19.99 per hour. Competitive compensation is the best way to ensure the retention of qualified and effective workers. Rhode Island should not suffer the loss of experienced Federal employees to the same jobs, at the same grade levels, just miles away because of better pay.

The chair of the Federal Prevailing Rate Advisory Committee (FPRAC), which advises the Office of Personnel Management on decisions dealing with the FWS pay scales, has been left vacant, leaving the FPRAC unable to make needed decisions regarding these wage areas.

Due to the lack of a chair and any action by FPRAC or OPM, which I have long urged to resolve this matter, I am reintroducing the Rhode Island Federal Worker Fairness Act, and I am pleased that Senator WHITEHOUSE is joining me as a cosponsor. This bill will merge the Narragansett Bay wage area with the Boston, MA, wage area to provide regional pay equity to Rhode Island Federal blue-collar workers. Merging these two wage areas will keep Federal workers in Rhode Island from abandoning their government jobs for higher paying positions elsewhere in southern New England, and help the approximately 500 wage rate workers in Rhode Island better provide for their families. I urge that this long pending inequality be addressed.

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. 920

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 ''Rhode Island Federal Worker Fairness Act of 2007''.

SEC. 2. WAGE PARITY FOR CERTAIN PREVAILING RATE EMPLOYEES IN RHODE ISLAND.

The wage schedules and rates applicable to prevailing rate employees (as defined in section 5342 of title 5, United States Code) in the Narragansett Bay, Rhode Island, wage area shall be the same as the wage schedules and rates applicable to prevailing rate employees in the Boston, Massachusetts, wage area.

SEC. 3. EFFECTIVE DATE.

Section 2 shall take effect beginning with the first pay period beginning on or after the date of enactment of this Act.

By Mr. THOMAS (for himself and Mrs. LINCOLN):

S. 921. A bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the ''Seniors Mental Health Access Improvement Act of 2007'' with my distinguished colleague from Arkansas, Mrs. LINCOLN. Specifically, the ''Seniors Mental Health Access Improvement Act of 2007'' permits mental health counselors and marriage and family therapists to bill Medicare for services provided to seniors. This will result in an increased choice of mental health providers for seniors and enhance their ability to access mental health services in their communities.

This legislation is especially crucial to rural seniors who are often forced to travel long distances to utilize the services of mental health providers currently recognized by the Medicare program. Rural communities have difficulty recruiting and retaining providers, especially mental health providers. In many small towns, a mental health counselor or a marriage and family therapist is the only mental health care provider in the area. Medicare law—as it exists today—compounds the situation because only psychiatrists, clinical psychologists, clinical social workers and clinical nurse specialists are able to bill Medicare for their services.

It is time the Medicare program recognized the qualifications of mental health counselors and marriage and family therapists as well as the critical role they play in the mental health care infrastructure. These providers go through rigorous training, similar to the curriculum of masters level social workers, and yet are excluded from the Medicare program.

Particularly troubling to me is the fact that seniors have disproportionally higher rates of depression and suicide than other populations. Additionally, 75 percent of the 518 nationally designated Mental Health Professional Shortage Areas are located in rural areas and one-fifth of all rural counties have no mental health services of any kind. Frontier counties have even more drastic numbers as 95 percent do not have a psychiatrist, 68

percent do not have a psychologist and 78 percent do not have a social worker. It is quite obvious we have an enormous task ahead of us to reduce these staggering statistics. Providing mental health counselors and marriage and family therapists the ability to bill Medicare for their services is a key part of the solution.

Virtually all of Wyoming is designated a mental health professional shortage area and will greatly benefit from this legislation. Wyoming has 174 psychologists, 37 psychiatrists and 263 clinical social workers for a total of 474 Medicare eligible mental health providers. Enactment of the ''Seniors Mental Health Access Improvement Act of 2007'' will more than double the number of mental health providers available to seniors in my State with the addition of 528 mental health counselors and 61 marriage and family therapists currently licensed in the State.

I believe this legislation is critically important to the health and well-being of our Nation's seniors and I strongly urge all my colleagues to become a cosponsor.

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. 921

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 ''Seniors Mental Health Access Improvement Act of 2007''.

SEC. 2. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(A) in subparagraph (Z), by striking ''and'' after the semicolon at the end;

(B) in subparagraph (AA), by inserting ''and'' after the semicolon at the end; and

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

''(BB) marriage and family therapist services (as defined in subsection (ccc)(1)) and mental health counselor services (as defined in subsection (ccc)(3));''.

(2) DEFINITIONS.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

''Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

''(ccc)(1) The term 'marriage and family therapist services' means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(2) The term 'marriage and family therapist' means an individual who—

''(A) possesses a master's or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

''(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

''(3) The term 'mental health counselor services' means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician's professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

''(4) The term 'mental health counselor' means an individual who—

''(A) possesses a master's or doctor's degree in mental health counseling or a related field;

''(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

''(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.''.

(3) PROVISION FOR PAYMENT UNDER PART b.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

''(v) marriage and family therapist services (as defined in section 1861(ccc)(1)) and mental health counselor services (as defined in section 1861(ccc)(3));''.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

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

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)''.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting ''marriage and family therapist services (as defined in section 1861(ccc)(1)), mental health counselor services (as defined in section 1861(ccc)(3)),'' after ''qualified psychologist services,''.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A marriage and family therapist (as defined in section 1861(ccc)(2)).

''(viii) A mental health counselor (as defined in section 1861(ccc)(4)).''.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1))'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ccc)(2)), or by a mental health counselor (as defined in subsection (ccc)(4))''.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting ''or one marriage and family therapist (as defined in subsection (ccc)(2))'' after ''social worker''.

(c) AUTHORIZATION OF MARRIAGE AND FAMILY THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the Social Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended by inserting ''marriage and family therapist (as defined in subsection (ccc)(2)),'' after ''social worker,''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2008.

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

S. 922. A bill to extend the existing provisions regarding the eligibility for essential air service subsidies through fiscal year 2012; to the Committee on Commerce, Science, and Transportation.

Mr. THUNE. Mr. President, I rise today to introduce a bill that will sustain important air service—in South Dakota and other rural States across the country. The Airline Deregulation Act of 1978 allowed airlines to provide air service to domestic markets as they saw fit. But Congress had the foresight to create the Essential Air Service (EAS) Program to ensure a minimal level of scheduled air service in small communities. Without the EAS program, these small communities might have otherwise seen the airlines pull up stakes and only focus on larger, more profitable markets.

Essential Air Service is especially important to rural States like my home State of South Dakota. We have four communities that participate in the EAS program: Brookings, Huron, Pierre, and Watertown. Ensuring air passengers have access in and out of these smaller communities makes our entire commercial airline network more valuable.

The bill I am introducing today is very simple. It extends a provision, Section 409, passed by Congress and signed into law by the President in the 2002 Federal Aviation Administration Reauthorization, commonly referred to as Vision 100. This provision ensures that certain mileage calculations that determine EAS program eligibility are

not simply measured by some bureaucrat in Washington, but are in fact certified by States' Governors. There are, of course, budgetary strains on the EAS program. Congress and the Administration should focus on strengthening the program and examine the air service it is supporting to make sure it is truly essential, but we should not allow bureaucrats behind a desk in Washington to surreptitiously use mileage determinations to cut the costs of the program and reduce air service in the process.

Brookings is a community in my home State that would have more than likely lost its commercial air service if this provision was not in place five years ago. We should keep it in place for the next five years to make sure Brookings and other communities like it do not end up the cutting room floor of the EAS program.

I look forward to working with my colleagues on the Commerce Committee to begin the process of reauthorizing FAA programs again this year. Aviation is a crucial element of our economy. I hope that this legislation, or at least the concept behind it, is considered during the reauthorization debate.

By Ms. CANTWELL (for herself and Ms. SNOWE):

S. 924. A bill to strengthen the United States Coast Guard's Integrated Deepwater Program; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I think we all agree that the United States Coast Guard plays a critical role in keeping our oceans, coasts, and waterways safe, secure, and free from environmental harm. Following the events of September 11 and, more recently, Hurricane Katrina the Coast Guard has served as a source of strength for this Nation. And, in the face of increasing marine traffic, security threats at our Nation's ports, and climate change increasing the odds of another Katrina, the responsibilities of the Coast Guard continue to increase.

The Coast Guard is struggling right now to replace their rapidly aging fleet of ships, aircraft, and facilities. At a cost of $24 billion, the Deepwater program is the largest and most complex acquisition program in the history of the Coast Guard. We have a responsibility to ensure there is transparency and oversight so this program is as efficient and effective as possible.

The Deepwater program utilizes a private sector lead systems integrator, LSI, know as Integrated Coast Guard Systems, ICGS, to oversee acquisition of a ''system of systems.'' When the Deepwater contract was originally awarded in 2002, the Coast Guard did not have the personnel within their acquisition department to manage such a large contract. We were told that outsourcing that role to industry would save the Coast Guard time and money over the long run.

The approach, which may have seemed innovative at the time, has not produced the promised results. Instead of cost and time savings, we've seen less competition, inadequate technical oversight and a lack of transparency. Over the last year, these problems have caused major blunders in the Deepwater program.

The Department of Homeland Security Inspector General, IG, has released three recent reports detailing some of the problems with Deepwater.

In an August 11, 2006 report titled Major Improvements Needed in the U.S. Coast Guard's Implementation of Deepwater Information Technology System, the IG described problems with Deepwater's C41SR electronics equipment, which is to be the integrating technology linking Deepwater's aircraft and ships.

On January 29, 2007, the IG released a scathing report on Deepwater's flagship National Security Cutter, NSC, documenting crucial design flaws and cost overruns created by a faulty contract structure and lack of Coast Guard oversight.

Finally, on February 9, 2007, the IG released another report, this one detailing serious issues with Deepwater's 123-foot cutter conversion project.

These reports, along with others by the Government Accountability Office about problems with the stalled Fast Response Cutter, FRC, program and the Deepwater contract structure, have prompted a resounding cry for Deepwater reform, transparency, and oversight.

On February 14, 2007, I chaired a hearing in the Commerce Committee's Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard to better understand these issues and seek solutions. From that hearing it was clear that the Coast Guard was working hard to make internal reforms. It was also clear that we needed to do more to protect the American taxpayer.

Today, I'm pleased to introduce, along with Senator SNOWE, the Integrated Deepwater Program Reform Act, a comprehensive bill which makes fundamental changes to the Coast Guard's Deepwater acquisition program.

My bill requires the Coast Guard to move away from the industry-led Lead Systems Integrator and have full and open competition for future Deepwater assets.

It requires a completely new ''analysis of alternatives'' of all future Deepwater assets to ensure that the Coast Guard is getting the assets best-suited for their needs.

It requires the Commandant of the Coast Guard to certify to Congress that specific assets to be procured are mature and cost-effective technologies, a requirement already applied to Department of Defense contracts.

And, it gives the Coast Guard the tools they need to manage this contract and future contracts effectively, including requiring the Coast Guard to make internal management changes to ensure open competition, increase technical oversight and improve reporting to Congress.

I'm pleased to say that I have worked closely with Senator SNOWE and the Coast Guard in crafting this bill and I'm confident that this will fix many of the problems that have plagued the Deepwater program.

This legislation takes a big step towards getting the Coast Guard the assets they need to meet the pressing needs of our Nation and ensuring responsible management of taxpayer dollars. I look forward to working with my colleagues to enact the changes we propose today so we can get this program back on track.

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

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

SUMMARY OF INTEGRATED DEEPWATER PROGRAM REFORM ACT

USE OF A LEAD SYSTEMS INTEGRATOR

Would direct the Coast Guard to stop using a Lead Systems Integrator (LSI) on future Deepwater acquisitions.

Would allow the Coast Guard to use the LSI to complete any specific work for which a contract or order had already been issued.

Would allow the Coast Guard to use the LSI to complete the C130–J modifications, the C4ISR program, and also to complete procurements of the National Security Cutters (NSCs) and Maritime Patrol Aircraft (MPA) already under contract for construction. However, the LSI must have no financial interest in subcontracts or have competed the subcontracts.

Would allow the Coast Guard to use the LSI to complete all of the remaining NSCs and MPAs only after an analysis of alternatives has been conducted and, if the Coast Guard concludes that these procurements and use of an LSI are in the best interests of the federal government, that justifications for not competing assets under the Federal Acquisition Regulations are met, and that the LSI has no financial interest in subcontracts or has competed the subcontracts.

All other Deepwater assets would be done as a traditional procurement.

COMPETITION

Would require that the Coast Guard have a full and open competition of all Deepwater assets that have not yet gone under contract, other than those that the LSI can complete.

Would require that the LSI have no financial interest in subcontracts for assets managed by the LSI, or that subcontracts be fully competed. A similar provision was included in the 2006 Defense Authorization Act.

ANALYSIS OF ALTERNATIVES

Would require an analysis of alternatives of all of the proposed Deepwater assets not currently under contract and whether other alternatives are preferable. Such review would be conducted by an independent third party entity with expertise in major acquisitions, and no financial conflict of interest.

Would require the Coast Guard to provide a plan to Congress for how to move forward with Deepwater procurements based on this review.

Would require a similar review for any major changes to the agreed plan in the future.

CERTIFICATION

Would require the Commandant to certify to Congress, prior to issuing new contracts

for specific proposed acquisitions, that the proposed asset meets objective criteria for feasibility, maturity of design, and costs. A similar requirement applies to Department of Defense contracts.

CONTRACT CHANGES

Would require improvements to any contract entered into by the Coast Guard for Deepwater assets, including changes to award term and award fee criteria as recommended by the Government Accountability Office (GAO).

Would end the practice of allowing the private contractor to self-certify the design and performance of assets being delivered. This will ensure adherence to accepted industry-wide standards and procedures.

INTERNAL COAST GUARD MANAGEMENT

Would require improvements to Coast Guard's management of Deepwater, including implementation of the Coast Guard's Blueprint for Acquisition Reform as well as recommendations for improved management included in a February 5, 2007 Defense Acquisition University (DAU) report and by GAO.

Would ensure better technical oversight by the Coast Guard's engineering staff.

Would allow the Coast Guard to shift personnel to support acquisitions projects.

REPORTING TO CONGRESS

Would require Coast Guard to provide significant additional information to Congress regarding the status of the Deepwater program, similar to what the Department of Defense provides.

GAO REVIEW

Would require GAO to monitor closely the Coast Guard's implementation of improvements to its management of the Deepwater program.

S. 924

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 ''Integrated Deepwater Program Reform Act''.

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

SEC. 2. PROCUREMENT STRUCTURE.

(a) IN GENERAL.—

(1) USE OF LEAD SYSTEMS INTEGRATOR.—Except as provided in subsection (b), the United States Coast Guard may not use a private sector entity as a lead systems integrator for procurements under, or in support of, the Integrated Deepwater Program after the date of enactment of this Act.

(2) FULL AND OPEN COMPETITION.—The United States Coast Guard shall utilize full and open competition for any other procurement for which an outside contractor is used under, or in support of, the Integrated Deepwater Program after the date of enactment of this Act.

(b) EXCEPTIONS.—

(1) COMPLETION OF PROCUREMENT BY LEAD SYSTEMS INTEGRATOR.—Notwithstanding subsection (a), the Coast Guard may use a private sector entity as a lead systems integrator—

(A) to complete, without modification, any delivery order or task order that was issued to the lead systems integrator on or before the date of enactment of this Act;

(B) for procurements of—

(i) the HC-130J and the C41SR, and

(ii) National Security Cutters or Maritime Patrol Aircraft under contract or order for construction as of the date of enactment of this Act,

if the requirements of subsection (c) are met with respect to such procurements; and

(C) for the procurement of additional National Security Cutters or Maritime Patrol Aircraft if the Commandant determines, after conducting the analysis of alternatives required by section 3, that—

(i) the justifications of FAR 6.3 are met;

(ii) the procurement and the use of a private sector entity as a lead systems integrator for the procurement is in the best interest of the Federal government; and

(iii) the requirements of subsection (c) are met with respect to such procurement.

(2) REPORT ON DECISION-MAKING PROCESS.—If the Coast Guard determines under paragraph (1) that it will use a private sector lead systems integrator for a procurement, the Commandant shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure notifying the Committees of its determination and explaining the rationale for the determination.

(c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—Neither an entity performing lead systems integrator functions for a procurement under, or in support of, the Integrated Deepwater Program, nor a Tier 1 subcontractor, for any procurement described in subparagraph (B) or (C) of subsection (b)(1) may have a financial interest below the tier 1 subcontractor level unless—

(1) the entity was selected by the Coast Guard through full and open competition for such procurement;

(2) the procurement was awarded by the lead systems integrator or a subcontractor through full and open competition; or

(3) the procurement was awarded by a subcontractor through a process over which the lead systems integrator or a Tier 1 subcontractor exercised no control.

SEC. 3. ANALYSIS OF ALTERNATIVES.

(a) IN GENERAL.—Except with respect to a procurement described in subparagraph (A) or (B) of section 2(b)(1) of this Act, no procurement may be awarded under the Integrated Deepwater Program until an analysis of alternatives has been conducted under this section.

(b) INDEPENDENT ANALYSIS.—Within 30 days after the date of enactment of this Act, the Commandant shall execute a contract for an analysis of alternatives with a Federally Funded Research and Development Center, an appropriate entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise for independent analysis of all of the proposed procurements under, or in support of, the Integrated Deepwater Program, including procurements described in section 2(b)(1)(B), and for any future major changes of such procurements. The Commandant may not contract under this subsection for such an analysis with any entity that has a substantial financial interest in any part of the Integrated Deepwater Program as of the date of enactment of this Act or in any alternative being considered.

(c) ANALYSIS.—The analysis of alternatives provided pursuant to the contract under subsection (b) shall include—

(1) a discussion of capability, interoperability, and other advantages and disadvantages of the proposed procurements;

(2) an examination of feasible alternatives;

(3) a discussion of key assumptions and variables, and sensitivity to changes in such assumptions and variables;

(4) an assessment of technology risk and maturity; and

(5) a calculation of costs, including life-cycle costs.

(d) REPORT TO CONGRESS.—As soon as possible after an analysis of alternatives has been completed, the Commandant shall develop a plan for the procurements addressed in the analysis and shall transmit a report describing the plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 4. CERTIFICATION.

(a) IN GENERAL.—A contract, delivery order, or task order for procurement under, or in support of, the Coast Guard's Integrated Deepwater Program may not be executed by the Coast Guard until the Commandant certifies that—

(1) appropriate market research has been conducted prior to technology development to reduce duplication of existing technology and products;

(2) the technology has been demonstrated in a relevant environment;

(3) the technology demonstrates a high likelihood of accomplishing its intended mission;

(4) the technology is affordable when considering the per unit cost and the total procurement cost in the context of the total resources available during the period covered by the Integrated Deepwater Program;

(5) the technology is affordable when considering the ability of the Coast Guard to accomplish its missions using alternatives, based on demonstrated technology, design, and knowledge;

(6) reasonable cost and schedule estimates have been developed to execute the product development and production plan for the technology;

(7) funding is available to execute the product development and production plan for the technology; and

(8) the technology complies with all relevant policies, regulations, and directives of the Coast Guard.

(b) REPORT TO CONGRESS.—The Commandant shall transmit a copy of each certification required under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 30 days after the completion of the certification.

SEC. 5. CONTRACT REQUIREMENTS.

The Commandant shall ensure that any contract, delivery order, or task order for procurement under, or in support of, the Integrated Deepwater Program executed by the Coast Guard—

(1) incorporates provisions that address the recommendations related to award fee determination and award term evaluation made by the Government Accountability Office in its March, 2004, report entitled *Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight*, GAO-04-380, and any subsequent Government Accountability Office recommendations relevant to the contract terms issued before the date of enactment of this Act, including that any award or incentive fee is tied to program outcomes;

(2) provides that certification of any Integrated Deepwater Program procurement for performance, safety, and any other relevant factor will be conducted by an independent third party;

(3) does not include—

(A) for any contract extending the existing Integrated Deepwater Program contract

term, minimum requirements for the purchase of a given or determinable number of specific assets;

(B) provisions that commit the Coast Guard without express written approval by the Coast Guard;

(C) any provision allowing for equitable adjustment that differs from the Federal Acquisition Regulations; and

(4) for any contract extending the existing Integrated Deepwater Program contract term, is reviewed by, and addresses recommendations made by, the Under Secretary of Defense for Acquisition, Technology, and Logistics through the Defense Acquisition University.

SEC. 6. IMPROVEMENTS IN COAST GUARD MANAGEMENT.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commandant shall take action to ensure that—

(1) the measures contained in the Coast Guard's report entitled *Coast Guard: Blue Print for Acquisition Reform* are implemented fully;

(2) any additional measures for improved management recommended by the Defense Acquisition University in its *Quick Look Study of the United States Coast Guard Deepwater Program*, dated February 5, 2007, are implemented;

(3) integrated product teams, and all higher-level teams that oversee integrated product teams, are chaired by Coast Guard personnel; and

(4) the Assistant Commandant for Engineering and Logistics is designated as the Technical Authority for all design, engineering, and technical decisions for the Integrated Deepwater Program.

(b) TRANSFER.—

(1) IN GENERAL.—Section 93(a) of title 14, United States Code, is amended—

(A) by striking ''and'' after the semicolon in paragraph (23);

(B) by striking ''appropriate.'' in paragraph (24) and inserting ''appropriate; and''; and

(C) by adding at the end thereof the following:

''(25) notwithstanding any other provision of law, in any fiscal year transfer funds made available for personnel, compensation, and benefits from the appropriation account 'Acquisition, Construction, and Improvement' to the appropriation account 'Operating Expenses' for personnel compensation and benefits and related costs necessary to execute new or existing procurements of the Coast Guard.''.

(2) NOTIFICATION.—Within 30 days after making a transfer under section 93(a)(25) of title 14, United States Code, the Commandant shall notify the Senate Committee on Commerce, Science, Transportation and Infrastructure, the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the House Committee on Appropriations.

SEC. 7. PROCUREMENT AND REPORT REQUIREMENTS.

(a) SELECTED ACQUISITION REPORTS.—The Commandant shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure reports on the Integrated Deepwater Program that contain the same type of information with respect to that Program, to the greatest extent practicable, as the Secretary of Defense is required to provide to the Congress under section 2432 of title 10, United States Code, with respect to major defense procurement programs.

(b) UNIT COST REPORTS.—Each Coast Guard program manager under the Coast Guard's Integrated Deepwater Program shall provide to the Commandant, or the Commandant's designee, reports on the unit cost of assets acquired or modified that are under the management or control of the Coast Guard program manager on the same basis and containing the same information, to the greatest extent practicable, as is required to be included in the reports a program manager is required to provide to the service procurement executive designated by the Secretary of Defense under section 2433 of title 10, United States Code, with respect to a major defense procurement program.

(c) REPORTING ON COST OVERRUNS AND DELAYS.—Within 30 days after the Commandant becomes aware of a likely cost overrun or scheduled delay, the Commandant shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that includes—

(1) a description of the known or anticipated cost overrun;

(2) a detailed explanation for such overruns;

(3) a detailed description of the Coast Guard's plans for responding to such overrun and preventing additional overruns; and

(4) a description of any significant delays in procurement schedules.

SEC. 8. GAO REVIEW AND RECOMMENDATIONS.

(a) AWARD FEE AND AWARD TERM CRITERIA.—The Coast Guard may not execute a new contract, delivery order, or task order, nor agree to extend the term of an existing contract, with a prime contractor for procurement under, or in support of, the Integrated Deepwater Program until the Commandant has consulted with the Comptroller General to ensure that the Government Accountability Office's recommendations, in its March, 2004, report entitled *Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight*, GAO-04-380, and any subsequent Government Accountability Office recommendations issued before the date of enactment of this Act, with respect to award fee and award term criteria have been fully addressed.

(b) OTHER RECOMMENDATIONS.—The Commandant shall ensure that all other recommendations in that report, and any subsequent recommendations issued before the date of enactment of this Act, are implemented to the maximum extent practicable by the Coast Guard within 1 year after the date of enactment of this Act. The Commandant shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing such recommendations.

(c) GAO REPORTS ON IMPLEMENTATION.—Beginning 6 months after the date of enactment of this Act, the Comptroller General shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing the Government Accountability Office's recommendations, in its March, 2004, report entitled *Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight*, GAO-04-380, and any subsequent Government Accountability Office recommendations issued before the date of enactment of this Act, in carrying out this Act.

SEC. 9. DEFINITIONS.

In this Act:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the United States Coast Guard.

(2) INTEGRATED DEEPWATER PROGRAM.—The term ''Integrated Deepwater Program'' means the Integrated Deepwater Systems Program described by the Coast Guard in its Report to Congress on Revised Deepwater Implementation Plan, dated March 25, 2005, including any subsequent modifications, revisions, or restatements of the Program.

(3) PROCUREMENT.—The term ''procurement'' includes development, production, sustainment, modification, conversion, and missionization.

Ms. SNOWE. Mr. President, today I rise to support introduction of the Integrated Deepwater Reform Act.

Since 1790, the United States Coast Guard has served as the guardian of our shores. It began its service to the Nation as a lifesaving organization, protecting our mariners from the perils of the sea. Over time, its missions have come to encompass additional responsibilities including performing drug and migrant interdiction, enforcing fisheries regulations, and maintaining our Nation's waterways and aids to navigation. Following the tragic events of September 11th, 2001, the Coast Guard expanded its role in homeland security operations, becoming the agency charged with protecting our Nation from maritime threats.

Though we have expanded the role of this valiant service, we have not upgraded its equipment to the degree necessary to carry out the tasks it has been assigned. Current Coast Guard vessels comprise the third oldest naval fleet in the world. Some of its cutters still in service are over sixty years old. Recognizing the looming obsolescence of its legacy fleet, in the mid 1990s the Coast Guard embarked on an effort to create a wholly integrated system of ships, aircraft, sensors, and communications systems and called the effort Deepwater. Recapitalizing the Coast Guard remains one of this Nation's most important National Security initiatives.

However, recent events have made it clear that additional Congressional oversight is warranted for this major acquisitions program. Failure of the 123-foot patrol boat conversion program, and questions about the fatigue life of the hull of the National Security Cutter under the purview of Integrated Coast Guard Systems have called into question the value of this ''lead systems integrator.'' The contract as written has given the contractor too much autonomy and not enough focus on actual performance.

By placing restrictions on the structure of any agreements between the Coast Guard and its contractors, this bill will ensure that future Deepwater contracts protect the American taxpayer while allowing the Coast Guard to acquire the assets necessary to carry out its critical responsibilities. We cannot change the simple fact that in order to protect our Nation, the Coast Guard must be able to upgrade its existing assets. The safety of the brave men and women who serve in the Coast Guard, and the security of every American depends on the success of this program.

I remain convinced that the Integrated Deepwater Program is the appropriate vehicle for the Coast Guard's modernization. However, in order for the Coast Guard to receive the best assets at the best value for the American taxpayer, Congress must ensure that the service and the contractors recognizes their joint commitment to both excellence and fiscal responsibility. By limiting the use of a lead systems integrator, increasing requirements for open competition, requiring additional internal Coast Guard management, and increasing reporting requirements to Congress, this bill provides that assurance.

I am proud to add this bill to my record of Coast Guard oversight. I also would like to take this opportunity to thank Senator CANTWELL for all her hard work on this legislation.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 926. A bill to amend the Internal Revenue Code of 1986 to provide for the creation of disaster protection funds By property and casualty insurance companies for the payment of policyholders' claims arising from future catastrophic events; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 927. A bill to amend the Internal Revenue Code of 1986 to create Catastrophe Savings Accounts; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 928. A bill to establish a program to provide more protection at lower cost through a national backstop for State natural catastrophe insurance programs to help the United States better prepare for and protect its citizens against the ravages of natural catastrophes, to encourage and promote mitigation and prevention for, and recovery and rebuilding from such catastrophes, to better assist in the financial recovery from such catastrophes, and to develop a rigorous process of continuous improvement; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MARTINEZ (for himself, Mr. NELSON of Florida):

S. 929. A bill to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MARTINEZ (for himself and Mr. NELSON of Florida):

S. 930. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for hurricane and tornado mitigation expenditures; to the Committee on Finance.

By Mr. MARTINEZ (for himself, Mr. NELSON of Florida, Mrs. DOLE, and Ms. LANDRIEU):

S. 931. bill to establish the National Hurricane Research Initiative to improve hurricane preparedness, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleague Senator MEL MARTINEZ as we introduce a package of bills aimed at providing a comprehensive solution to strengthen our Nation's property and casualty insurance market. Without serious reform, the Federal Government will be forced to continue to spend billions of dollars of taxpayer money to cover the costs of natural disasters in the United States. Worse, without Federal action, property insurance soon will become more expensive and hard to find, preventing some consumers from insuring their homes and businesses.

As we know all too well, the last few years have brought a devastating cycle of natural catastrophes in the United States. In 2004 and 2005, we witnessed a series of powerful hurricanes that caused unthinkable human tragedy and property loss. Hurricanes Katrina and Rita alone caused over $200 billion in total economic losses, including insured and uninsured losses.

In my own home State of Florida, eight catastrophic storms in fifteen months caused more than $31 billion in insured damages. Now Florida is witnessing skyrocketing insurance rates, insurance companies are canceling hundreds of thousands of policies, and Florida's State catastrophe fund is depleted.

In short, the inability of our private markets to fully handle the fallout from natural disasters has made our Nation's property and casualty insurance marketplace unstable. This market instability repeatedly has forced the Federal Government to absorb billions of dollars in uninsured losses. This is a waste of taxpayer money, especially when we know there are ways to design the system to anticipate and plan for the financial impacts of catastrophes.

As insurance companies struggle to maintain their businesses, costs are passed on to homeowners and small businesses in Florida and in other States. In essence, the people who can least afford it are being forced to bear the disproportionate share of the billions of dollars of losses caused by natural catastrophes.

Many Floridians have seen their insurance bills double in the last few years. As I travel around Florida, I hear repeatedly from my constituents that they may soon be unable to afford property and casualty insurance. That is a frightening proposition for people living in a State where increasingly vicious hurricane seasons are predicted. I am sure we all agree—consumers never should be put in the untenable position of having to choose between purchasing insurance and purchasing other necessities.

While our Nation's property and casualty insurance system is not yet broken, it's clear that Congress needs to act now to shore up the system. Private sector insurance is currently available to spread some catastrophe-related losses throughout the Nation and internationally, but most experts believe that there will be significant insurance and reinsurance shortages. These shortages could result in future dramatic rate increases for consumers and businesses and the unavailability of catastrophe insurance.

Let me be clear: these issues will not just affect Florida or the coastal States. Natural catastrophes can strike anywhere in the country. For example, a major earthquake fault line runs through several of our Midwestern States. We also saw firsthand the devastating effects of a volcano eruption at Mount Saint Helens in Washington State.

In the past few decades, major disasters have been declared in almost every State. As I mentioned earlier, the Federal Government has provided and will continue to provide billions of dollars and resources to pay for these catastrophic losses, at huge costs to all American taxpayers.

Congress has struggled with these issues for decades. Although we have talked about these issues time and time again, nothing much has gotten accomplished. The most notable step Congress did take was to create a National Flood Insurance Program. But Congress needs to do much more. It's time for a comprehensive approach to solving our Nation's property and casualty insurance issues.

These matters are usually within the purview of the States, and I cannot understate the importance of State-based solutions to these insurance issues. Nonetheless, the Federal Government also has a critical interest in ensuring appropriate and fiscally responsible risk management of catastrophes.

For example, mortgages require reliable property insurance, and the unavailability of reliable property insurance would make most real estate transactions impossible. Moreover, the public health, safety, and welfare demand that structures damaged or destroyed in catastrophes be reconstructed as soon as possible.

In order to help protect consumers and small businesses, today I join Senator MARTINEZ to introduce this package of bills as part of a comprehensive approach to fixing our troubled insurance system. Let me summarize each of the bills and tell you how this integrated approach makes good policy sense.

The first piece of legislation Senator MARTINEZ and I are introducing today is the Homeowners Protection Act of 2007. This bill is a companion bill to legislation introduced by Florida Representatives BROWN-WAITE, BUCHANAN, and others.

This bill would establish a Fund within the U.S. Department of Treasury, which would sell Federal catastrophe insurance to State catastrophe funds; like the fund I helped to set up in Florida. State catastrophe funds essentially act as reinsurance mechanisms for insurance companies who lack resources to compensate homeowners for their losses.

Under this bill, State catastrophe funds would be eligible to purchase reinsurance from the Federal fund at sound rates. However, a State catastrophe fund would be prohibited from gaining access to the Federal fund until private insurance companies and the State catastrophe fund met their financial obligations.

Why is this good for homeowners? Because this back-up mechanism will improve the solvency and capacity of homeowners' insurance markets, which will reduce the chance that consumers will lose their insurance coverage or be hit by huge premium increases.

Importantly, the Homeowners Protection Act of 2007 also recognizes that part of the problem with our broken property and casualty insurance system lies with outdated building codes and mitigation techniques. Noted insurance experts and consumer groups have been pointing out this problem for many years. So, under the bill, the Secretary of the Treasury would establish an expert commission to assist States in developing mitigation, prevention, recovery, and rebuilding programs that would reduce the types of enormous damage we have seen caused by past hurricanes.

I note that this bill covers not just hurricanes, but catastrophes such as tornados, earthquakes, cyclones, catastrophic winter storms, and volcanic eruptions. These are disasters that can—and do—occur in many different States. Again, every State and every taxpayer is affected by this problem, not just Florida.

This bill has widespread support from a broad range of stakeholders, including ProtectingAmerica.org, a national coalition of first responders, businesses, and emergency managers. This organization is co-chaired by former FEMA director James Lee Witt, one of the most respected names in disaster prevention and preparedness.

The second bill that Senator MARTINEZ and I are introducing today is the Catastrophic Savings Accounts Act of 2007. This bill proposes changing the Federal tax code to allow homeowners to put money aside—on a tax-free basis—to grow over time. If and when a catastrophe hits, a homeowner could take the accumulated savings out of the account to cover uninsured losses, deductible expenses, and building upgrades to mitigate damage that could be caused in future disasters. Homeowners could even reduce their insurance premiums because their tax-free savings would allow them to choose higher deductibles.

The benefits of this approach are pretty straightforward and very consumer friendly. Homeowners would be encouraged to plan in advance for future disasters, and they wouldn't be taxed to do it. Moreover, homeowners wouldn't be as dependent on insurance companies to help them out immediately after a disaster. As one expert has noted, why should a consumer continue to give insurance companies thousands of dollars each year when the consumer could deposit the same amount of money annually in a tax-free, interest-bearing savings account controlled by the consumer?

The third bill that Senator MARTINEZ and I are introducing today is the Policyholder Disaster Protection Act of 2007. Under this bill, insurance companies would be permitted to accumulate tax-deferred catastrophic reserves, much like the way that homeowners would be permitted under the bill I just discussed. Depending on their size, insurance companies could save up to a certain capped amount, which would grow over time.

Our current Federal tax code actually provides a disincentive for insurance companies to accumulate reserve funds for catastrophes. Under the current system, insurance companies can only reserve against losses that have already occurred, instead of future losses. The United States is the only industrialized nation that actually taxes reserves in this way. It's time for reform, so that consumers are better protected.

Make no mistake, though—this bill is not a give-away to the insurance companies. Instead, the Policyholder Disaster Protection Act of 2007 would strictly regulate when and how insurance companies could access their reserves, to make sure the money is used only for its intended purposes.

If implemented correctly, this bill could result in approximately $15 billion worth of reserves being saved up by insurance companies, which later could be spent to pay for policyholder claims and to keep insurance policies available and affordable. Consumers could feel more protected knowing that their insurance company would have the money saved to help them out after a major disaster. Moreover, this approach should help make the insurance market more stable and less prone to insurers going bankrupt.

The fourth bill that Senator MARTINEZ and I are introducing is the Hurricane and Tornado Mitigation Investment Act of 2007. A similar bill was introduced in the House of Representatives by GUS BILIRAKIS and has eight cosponsors.

We have learned through experience that steps taken to fortify and strengthen homes and businesses can prevent damage in the event of a catastrophe. This bill would allow a tax credit of 25 percent not to exceed $5,000 for the costs of building upgrades to mitigate damage caused by hurricanes or tornados.

Updates and improvements to roofs, exterior doors and garages would be covered under this bill. To ensure that these measures are adequately constructed, a state-certified inspector must examine the home or business. The benefits of this approach are straightforward—home and business owners would be encouraged to plan in advance for future disasters and take steps to mitigate damage caused by catastrophic events.

The fifth bill that Senator MARTINEZ and I are introducing is the Nonadmitted and Reinsurance Reform Act of 2007. Last year, a similar bill, introduced by GINNY BROWN-WAITE passed unanimously in the House of Representatives.

Currently, a small percentage of consumers may be unable to find insurance from a licensed insurer, and may be able to purchase insurance from non-licensed insurers, called nonadmitted or surplus lines insurers. These surplus lines insurers often function as a ''safety valve'' for the insurance market. Florida has more individuals in the surplus lines market than any other State.

Virtually every sector—insurers, producers, consumers—has voiced concern with the inefficient patchwork of different laws and regulations that characterize the surplus lines regulatory system. This bill aims to streamline regulations in the surplus lines marketplace through a mix of national standards with State enforcement and uniformity achieved through both incentives and preemption of certain State laws. This bill would create a more efficient and streamlined regulatory system and promote competition in the nonadmitted marketplace.

The sixth bill that Senator MARTINEZ and I are introducing is the National Hurricane Research Initiative Act of 2007. From the storms of 2004 and 2005 we learned the importance of accurate hurricane tracking and prediction. Accurate prediction provides residents of coastal communities more time to find safe and sound shelter.

The objective of this bill is to enhance and improve knowledge of hurricanes by harnessing the expertise of the Federal Government's science professionals to better understand hurricane prediction, intensity, and mitigation on coastal populations and infrastructure.

Let me emphasize again what we need to accomplish to reform our current insurance system and to effectively plan for catastrophic losses.

We need a comprehensive approach that will make sure the United States is truly prepared for the financial fallout from natural disasters. We need a property and casualty insurance system that is not forced to spread valuable taxpayer dollars after a catastrophe strikes. We need a system that protects consumers and small businesses from losing their insurance policies or being forced to pay exorbitant insurance rates. We need ways to encourage responsible construction and mitigation techniques. And we need a

system that helps insurance companies use their resources in cost-effective ways so that they will not go insolvent after major disasters.

Our American economy depends on a health property and casualty insurance system. By enacting meaningful reforms, we can ensure that our economy remains protected and remains the most resilient economy in the world. I know this complicated process won't be easy for us—but let's roll up our shirtsleeves and get it done.

I request that the text of the Homeowners Protection Act of 2007, the Catastrophe Savings Accounts Act and the Policyholder Disaster Protection Act of 2007 be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 926

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 ''Policyholder Disaster Protection Act of 2007''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Rising costs resulting from natural disasters are placing an increasing strain on the ability of property and casualty insurance companies to assure payment of homeowners' claims and other insurance claims arising from major natural disasters now and in the future.

(2) Present tax laws do not provide adequate incentives to assure that natural disaster insurance is provided or, where such insurance is provided, that funds are available for payment of insurance claims in the event of future catastrophic losses from major natural disasters, as present law requires an insurer wishing to accumulate surplus assets for this purpose to do so entirely from its after-tax retained earnings.

(3) Revising the tax laws applicable to the property and casualty insurance industry to permit carefully controlled accumulation of pretax dollars in separate reserve funds devoted solely to the payment of claims arising from future major natural disasters will provide incentives for property and casualty insurers to make natural disaster insurance available, will give greater protection to the Nation's homeowners, small businesses, and other insurance consumers, and will help assure the future financial health of the Nation's insurance system as a whole.

(4) Implementing these changes will reduce the possibility that a significant portion of the private insurance system would fail in the wake of a major natural disaster and that governmental entities would be required to step in to provide relief at taxpayer expense.

SEC. 3. CREATION OF POLICYHOLDER DISASTER PROTECTION FUNDS; CONTRIBUTIONS TO AND DISTRIBUTIONS FROM FUNDS; OTHER RULES.

(a) CONTRIBUTIONS TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Subsection (c) of section 832 of the Internal Revenue Code of 1986 (relating to the taxable income of insurance companies other than life insurance companies) is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting ''; and'', and by adding at the end the following new paragraph:

''(14) the qualified contributions to a policyholder disaster protection fund during the taxable year.''.

(b) DISTRIBUTIONS FROM POLICYHOLDER DISASTER PROTECTION FUNDS.—Paragraph (1) of section 832(b) of such Code is amended by striking ''and'' at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting '', and'', and by adding at the end the following new subparagraph:

''(F) the amount of any distributions from a policyholder disaster protection fund during the taxable year, except that a distribution made to return to the qualified insurance company any contribution which is not a qualified contribution (as defined in subsection (h)) for a taxable year shall not be included in gross income if such distribution is made prior to the filing of the tax return for such taxable year.''.

(c) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—Section 832 of such Code (relating to insurance company taxable income) is amended by adding at the end the following new subsection:

''(h) DEFINITIONS AND OTHER RULES RELATING TO POLICYHOLDER DISASTER PROTECTION FUNDS.—For purposes of this section—

''(1) POLICYHOLDER DISASTER PROTECTION FUND.—The term 'policyholder disaster protection fund' (hereafter in this subsection referred to as the 'fund') means any custodial account, trust, or any other arrangement or account—

''(A) which is established to hold assets that are set aside solely for the payment of qualified losses, and

''(B) under the terms of which—

''(i) the assets in the fund are required to be invested in a manner consistent with the investment requirements applicable to the qualified insurance company under the laws of its jurisdiction of domicile,

''(ii) the net income for the taxable year derived from the assets in the fund is required to be distributed no less frequently than annually,

''(iii) an excess balance drawdown amount is required to be distributed to the qualified insurance company no later than the close of the taxable year following the taxable year for which such amount is determined,

''(iv) a catastrophe drawdown amount may be distributed to the qualified insurance company if distributed prior to the close of the taxable year following the year for which such amount is determined,

''(v) a State required drawdown amount may be distributed, and

''(vi) no distributions from the fund are required or permitted other than the distributions described in clauses (ii) through (v) and the return to the qualified insurance company of contributions that are not qualified contributions.

''(2) QUALIFIED INSURANCE COMPANY.—The term 'qualified insurance company' means any insurance company subject to tax under section 831(a).

''(3) QUALIFIED CONTRIBUTION.—The term 'qualified contribution' means a contribution to a fund for a taxable year to the extent that the amount of such contribution, when added to the previous contributions to the fund for such taxable year, does not exceed the excess of—

''(A) the fund cap for the taxable year, over

''(B) the fund balance determined as of the close of the preceding taxable year.

''(4) EXCESS BALANCE DRAWDOWN AMOUNTS.—The term 'excess balance drawdown amount' means the excess (if any) of—

''(A) the fund balance as of the close of the taxable year, over

''(B) the fund cap for the following taxable year.

''(5) CATASTROPHE DRAWDOWN AMOUNT.—

''(A) IN GENERAL.—The term 'catastrophe drawdown amount' means an amount that does not exceed the lesser of the amount determined under subparagraph (B) or (C).

''(B) NET LOSSES FROM QUALIFYING EVENTS.—The amount determined under this subparagraph shall be equal to the qualified losses for the taxable year determined without regard to clause (ii) of paragraph (8)(A).

''(C) GROSS LOSSES IN EXCESS OF THRESHOLD.—The amount determined under this subparagraph shall be equal to the excess (if any) of—

''(i) the qualified losses for the taxable year, over

''(ii) the lesser of—

''(I) the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

''(II) 30 percent of the qualified insurance company's surplus as regards policyholders as shown on the company's annual statement for the calendar year preceding the taxable year.

''(D) SPECIAL DRAWDOWN AMOUNT FOLLOWING A RECENT CATASTROPHE LOSS YEAR.—If for any taxable year included in the reference period the qualified losses exceed the amount determined under subparagraph (C)(ii), the 'catastrophe drawdown amount' shall be an amount that does not exceed the lesser of the amount determined under subparagraph (B) or the amount determined under this subparagraph. The amount determined under this subparagraph shall be an amount equal to the excess (if any) of—

''(i) the qualified losses for the taxable year, over

''(ii) the lesser of—

''(I) ⅓ of the fund cap for the taxable year (determined without regard to paragraph (9)(E)), or

''(II) 10 percent of the qualified insurance company's surplus as regards policyholders as shown on the company's annual statement for the calendar year preceding the taxable year.

''(E) REFERENCE PERIOD.—For purposes of subparagraph (D), the reference period shall be determined under the following table:

''For a taxable year beginning in—	The reference period shall be—
2010 and later	The 3 preceding taxable years.
2009	The 2 preceding taxable years.
2008	The preceding taxable year.
2007 or before	No reference period applies.

''(6) STATE REQUIRED DRAWDOWN AMOUNT.—The term 'State required drawdown amount' means any amount that the department of insurance for the qualified insurance company's jurisdiction of domicile requires to be distributed from the fund, to the extent such amount is not otherwise described in paragraph (4) or (5).

''(7) FUND BALANCE.—The term 'fund balance' means—

''(A) the sum of all qualified contributions to the fund,

''(B) less any net investment loss of the fund for any taxable year or years, and

''(C) less the sum of all distributions under clauses (iii) through (v) of paragraph (1)(B).

''(8) QUALIFIED LOSSES.—

''(A) IN GENERAL.—The term 'qualified losses' means, with respect to a taxable year—

''(i) the amount of losses and loss adjustment expenses incurred in the qualified lines of business specified in paragraph (9), net of reinsurance, as reported in the qualified insurance company's annual statement for the taxable year, that are attributable to one or more qualifying events (regardless of when such qualifying events occurred),

''(ii) the amount by which such losses and loss adjustment expenses attributable to

such qualifying events have been reduced for reinsurance received and recoverable, plus

''(iii) any nonrecoverable assessments, surcharges, or other liabilities that are borne by the qualified insurance company and are attributable to such qualifying events.

''(B) QUALIFYING EVENT.—For purposes of subparagraph (A), the term 'qualifying event' means any event that satisfies clauses (i) and (ii).

''(i) EVENT.—An event satisfies this clause if the event is 1 or more of the following:

''(I) Windstorm (hurricane, cyclone, or tornado).

''(II) Earthquake (including any fire following).

''(III) Winter catastrophe (snow, ice, or freezing).

''(IV) Fire.

''(V) Tsunami.

''(VI) Flood.

''(VII) Volcanic eruption.

''(VIII) Hail.

''(ii) CATASTROPHE DESIGNATION.—An event satisfies this clause if the event—

''(I) is designated a catastrophe by Property Claim Services or its successor organization,

''(II) is declared by the President to be an emergency or disaster, or

''(III) is declared to be an emergency or disaster in a similar declaration by the chief executive official of a State, possession, or territory of the United States, or the District of Columbia.

''(9) FUND CAP.—

''(A) IN GENERAL.—The term 'fund cap' for a taxable year is the sum of the separate lines of business caps for each of the qualified lines of business specified in the table contained in subparagraph (C) (as modified under subparagraphs (D) and (E)).

''(B) SEPARATE LINES OF BUSINESS CAP.—For purposes of subparagraph (A), the separate lines of business cap, with respect to a qualified line of business specified in the table contained in subparagraph (C), is the product of—

''(i) net written premiums reported in the annual statement for the calendar year preceding the taxable year in such line of business, multiplied by

''(ii) the fund cap multiplier applicable to such qualified line of business.

''(C) QUALIFIED LINES OF BUSINESS AND THEIR RESPECTIVE FUND CAP MULTIPLIERS.—For purposes of this paragraph, the qualified lines of business and fund cap multipliers specified in this subparagraph are those specified in the following table:

"Line of Business on Annual Statement Blank:	Fund Cap Multiplier:
Fire	0.25
Allied	1.25
Farmowners Multiple Peril	0.25
Homeowners Multiple Peril	0.75
Commercial Multi Peril (non-liability portion)	0.50
Earthquake	13.00
Inland Marine	0.25.

''(D) SUBSEQUENT MODIFICATIONS OF THE ANNUAL STATEMENT BLANK.—If, with respect to any taxable year beginning after the effective date of this subsection, the annual statement blank required to be filed is amended to replace, combine, or otherwise modify any of the qualified lines of business specified in subparagraph (C), then for such taxable year subparagraph (C) shall be applied in a manner such that the fund cap shall be the same amount as if such reporting modification had not been made.

''(E) 20-YEAR PHASE-IN.—Notwithstanding subparagraph (C), the fund cap for a taxable year shall be the amount determined under subparagraph (C), as adjusted pursuant to subparagraph (D) (if applicable), multiplied by the phase-in percentage indicated in the following table:

Taxable year beginning in:	Phase-in percentage to be applied to fund cap computed under subparagraphs (A) and (B):
2007	5 percent
2008	10 percent
2009	15 percent
2010	20 percent
2011	25 percent
2012	30 percent
2013	35 percent
2014	40 percent
2015	45 percent
2016	50 percent
2017	55 percent
2018	60 percent
2019	65 percent
2020	70 percent
2021	75 percent
2022	80 percent
2023	85 percent
2024	90 percent
2025	95 percent
2026 and later	100 percent

''(10) TREATMENT OF INVESTMENT INCOME AND GAIN OR LOSS.—

''(A) CONTRIBUTIONS IN KIND.—A transfer of property other than money to a fund shall be treated as a sale or exchange of such property for an amount equal to its fair market value as of the date of transfer, and appropriate adjustment shall be made to the basis of such property. Section 267 shall apply to any loss realized upon such a transfer.

''(B) DISTRIBUTIONS IN KIND.—A transfer of property other than money by a fund to the qualified insurance company shall not be treated as a sale or exchange or other disposition of such property. The basis of such property immediately after such transfer shall be the greater of the basis of such property immediately before such transfer or the fair market value of such property on the date of such transfer.

''(C) INCOME WITH RESPECT TO FUND ASSETS.—Items of income of the type described in paragraphs (1)(B), (1)(C), and (2) of subsection (b) that are derived from the assets held in a fund, as well as losses from the sale or other disposition of such assets, shall be considered items of income, gain, or loss of the qualified insurance company. Notwithstanding paragraph (1)(F) of subsection (b), distributions of net income to the qualified insurance company pursuant to paragraph (1)(B)(ii) of this subsection shall not cause such income to be taken into account a second time.

''(11) NET INCOME; NET INVESTMENT LOSS.—For purposes of paragraph (1)(B)(ii), the net income derived from the assets in the fund for the taxable year shall be the items of income and gain for the taxable year, less the items of loss for the taxable year, derived from such assets, as described in paragraph (10)(C). For purposes of paragraph (7), there is a net investment loss for the taxable year to the extent that the items of loss described in the preceding sentence exceed the items of income and gain described in the preceding sentence.

''(12) ANNUAL STATEMENT.—For purposes of this subsection, the term 'annual statement' shall have the meaning set forth in section 846(f)(3).

''(13) EXCLUSION OF PREMIUMS AND LOSSES ON CERTAIN PUERTO RICAN RISKS.—Notwithstanding any other provision of this subsection, premiums and losses with respect to risks covered by a catastrophe reserve established under the laws or regulations of the Commonwealth of Puerto Rico shall not be taken into account under this subsection in determining the amount of the fund cap or the amount of qualified losses.

''(14) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations—

''(A) which govern the application of this subsection to a qualified insurance company having a taxable year other than the calendar year or a taxable year less than 12 months,

''(B) which govern a fund maintained by a qualified insurance company that ceases to be subject to this part, and

''(C) which govern the application of paragraph (9)(D).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

S. 927

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 ''Catastrophe Savings Accounts Act of 2007''.

SEC. 2. CATASTROPHE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of Chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

''PART IX—CATASTROPHE SAVINGS ACCOUNTS

''SEC. 530A. CATASTROPHE SAVINGS ACCOUNTS.

''(a) GENERAL RULE.—A Catastrophe Savings Account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

''(b) CATASTROPHE SAVINGS ACCOUNT.—For purposes of this section, the term 'Catastrophe Savings Account' means a trust created or organized in the United States for the exclusive benefit of an individual or his beneficiaries and which is designated (in such manner as the Secretary shall prescribe) at the time of the establishment of the trust as a Catastrophe Savings Account, but only if the written governing instrument creating the trust meets the following requirements:

''(1) Except in the case of a qualified rollover contribution—

''(A) no contribution will be accepted unless it is in cash, and

''(B) contributions will not be accepted in excess of the account balance limit specified in subsection (c).

''(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

''(3) The interest of an individual in the balance of his account is nonforfeitable.

''(4) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

''(c) ACCOUNT BALANCE LIMIT.—The aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual (including qualified rollover contributions) shall not exceed—

''(1) in the case of an individual whose qualified deductible is not more than $1,000, $2,000, and

''(2) in the case of an individual whose qualified deductible is more than $1,000, the amount equal to the lesser of—

''(A) $15,000, or

''(B) twice the amount of the individual's qualified deductible.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CATASTROPHE EXPENSES.—The term 'qualified catastrophe expenses' means expenses paid or incurred by reason of a major disaster that has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

''(2) QUALIFIED DEDUCTIBLE.—With respect to an individual, the term 'qualified deductible' means the annual deductible for the individual's homeowners' insurance policy.

''(3) QUALIFIED ROLLOVER CONTRIBUTION.—The term 'qualified rollover contribution' means a contribution to a Catastrophe Savings Account—

''(A) from another such account of the same beneficiary, but only if such amount is contributed not later than the 60th day after the distribution from such other account, and

''(B) from a Catastrophe Savings Account of a spouse of the beneficiary of the account to which the contribution is made, but only if such amount is contributed not later than the 60th day after the distribution from such other account.

''(e) TAX TREATMENT OF DISTRIBUTIONS.—

''(1) IN GENERAL.—Any distribution from a Catastrophe Savings Account shall be includible in the gross income of the distributee in the manner as provided in section 72.

''(2) DISTRIBUTIONS FOR QUALIFIED CATASTROPHE EXPENSES.—

''(A) IN GENERAL.—No amount shall be includible in gross income under paragraph (1) if the qualified catastrophe expenses of the distributee during the taxable year are not less than the aggregate distributions during the taxable year.

''(B) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount which would be includible in gross income under paragraph (1) (without regard to this subparagraph) as the qualified catastrophe expenses bear to such aggregate distributions.

''(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR QUALIFIED CATASTROPHE EXPENSES.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a Catastrophe Savings Account which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

''(4) RETIREMENT DISTRIBUTIONS.—No amount shall be includible in gross income under paragraph (1) (or subject to an additional tax under paragraph (3)) if the payment or distribution is made on or after the date on which the distributee attains age 62.

''(f) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any Catastrophe Savings Account.''.

(b) TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (a) of section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to certain tax-favored accounts and annuities) is amended by striking ''or'' at the end of paragraph (4), by inserting ''or'' at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

''(6) a Catastrophe Savings Account (as defined in section 530A),''.

(2) EXCESS CONTRIBUTION.—Section 4973 of such Code is amended by adding at the end the following new subsection:

''(h) EXCESS CONTRIBUTIONS TO CATASTROPHE SAVINGS ACCOUNTS.—For purposes of this section, in the case of Catastrophe Savings Accounts (within the meaning of section 530A), the term 'excess contributions' means the amount by which the aggregate account balance for all Catastrophe Savings Accounts maintained for the benefit of an individual exceeds the account balance limit defined in section 530A(c)(1).''.

(c) CONFORMING AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''PART IX. CATASTROPHE SAVINGS ACCOUNTS''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

S. 928

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 ''Homeowners Protection Act of 2007''.

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

SEC. 2. FINDINGS.

Congress finds that—

(1) America needs to take steps to be better prepared for and better protected from catastrophes;

(2) the hurricane seasons of 2004 and 2005 are startling reminders of both the human and economic devastation that hurricanes, flooding, and other natural disasters can cause;

(3) if a repeat of the deadly 1900 Galveston hurricane occurred again it could cause thousands of deaths and over $36,000,000,000 in loss;

(4) if the 1906 San Francisco earthquake occurred again it could cause thousands of deaths, displace millions of residents, destroy thousands of businesses, and cause over $400,000,000,000 in loss;

(5) if a Category 5 hurricane were to hit Miami it could cause thousands of deaths and over $50,000,000,000 in loss and devastate the local and national economy;

(6) if a repeat of the 1938 ''Long Island Express'' were to occur again it could cause thousands of deaths and over $30,000,000,000 in damage, and if a hurricane that strong were to directly hit Manhattan it could cause over $150,000,000,000 in damage and cause irreparable harm to our Nation's economy;

(7) a more comprehensive and integrated approach to dealing with catastrophes is needed;

(8) using history as a guide, natural catastrophes will inevitably place a tremendous strain on homeowners' insurance markets in many areas, will raise costs for consumers, and will jeopardize the ability of many consumers to adequately insure their homes and possessions;

(9) the lack of sufficient insurance capacity and the inability of private insurers to build enough capital, in a short amount of time, threatens to increase the number of uninsured homeowners, which, in turn, increases the risk of mortgage defaults and the strain on the Nation's banking system;

(10) some States have exercised leadership through reasonable action to ensure the continued availability and affordability of homeowners' insurance for all residents;

(11) it is appropriate that efforts to improve insurance availability be designed and implemented at the State level;

(12) while State insurance programs may be adequate to cover losses from most natural disasters, a small percentage of events is likely to exceed the financial capacity of these programs and the local insurance markets;

(13) a limited national insurance backstop will improve the effectiveness of State insurance programs and private insurance markets and will increase the likelihood that homeowners' insurance claims will be fully paid in the event of a large natural catastrophe and that routine claims that occur after a mega-catastrophe will also continue to be paid;

(14) it is necessary to provide a national insurance backstop program that will provide more protection at an overall lower cost and that will promote stability in the homeowners' insurance market;

(15) it is the proper role of the Federal Government to prepare for and protect its citizens from catastrophes and to facilitate consumer protection, victim assistance, and recovery, including financial recovery; and

(16) any Federal reinsurance program must be founded upon sound actuarial principles and priced in a manner that encourages the creation of State funds and maximizes the buying potential of these State funds and encourages and promotes prevention and mitigation, recovery and rebuilding, and consumer education, and emphasizes continuous analysis and improvement.

SEC. 3. NATIONAL COMMISSION ON CATASTROPHE PREPARATION AND PROTECTION.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish a commission to be known as the National Commission on Catastrophe Preparation and Protection.

(b) DUTIES.—The Commission shall meet for the purpose of advising the Secretary regarding the estimated loss costs associated with the contracts for reinsurance coverage available under this Act and carrying out the functions specified in this Act, including—

(1) the development and implementation of public education concerning the risks posed by natural catastrophes;

(2) the development and implementation of prevention, mitigation, recovery, and rebuilding standards that better prepare and protect the United States from catastrophes; and

(3) conducting continuous analysis of the effectiveness of this Act and recommending improvements to the Congress so that—

(A) the costs of providing catastrophe protection are decreased; and

(B) the United States is better prepared.

(c) MEMBERS.—

(1) APPOINTMENT AND QUALIFICATION.—The Commission shall consist of 9 members, as follows:

(A) HOMELAND SECURITY MEMBER.—The Secretary of Homeland Security or the Secretary's designee.

(B) APPOINTED MEMBERS.—8 members appointed by the Secretary, who shall consist of—

(i) 1 individual who is an actuary;

(ii) 1 individual who is employed in engineering;

(iii) 1 individual representing the scientific community;

(iv) 1 individual representing property and casualty insurers;

(v) 1 individual representing reinsurers;

(vi) 1 individual who is a member or former member of the National Association of Insurance Commissioners; and

(vii) 2 individuals who are consumers.

(2) PREVENTION OF CONFLICTS OF INTEREST.—Members shall have no personal or financial interest at stake in the deliberations of the Commission.

(d) TREATMENT OF NON-FEDERAL MEMBERS.—Each member of the Commission who is not otherwise employed by the Federal Government shall be considered a special Government employee for purposes of sections 202 and 208 of title 18, United States Code.

(e) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The Commission may procure temporary and intermittent services from individuals or groups recognized as experts in the fields of meteorology, seismology, vulcanlogy, geology, structural engineering, wind engineering, and hydrology, and other fields, under section 3109(b) of title 5, United States Code, but at a rate not in excess of the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule, for each day during which the individual procured is performing such services for the Commission.

(2) OTHER EXPERTS.—The Commission may also procure, and the Congress encourages the Commission to procure, experts from universities, research centers, foundations, and other appropriate organizations who could study, research, and develop methods and mechanisms that could be utilized to strengthen structures to better withstand the perils covered by this Act.

(f) COMPENSATION.—

(1) IN GENERAL.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate of basic pay payable for level V of the Executive Schedule, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) FEDERAL EMPLOYEES.—All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(g) OBTAINING DATA.—

(1) IN GENERAL.—The Commission and the Secretary may solicit loss exposure data and such other information as either the Commission or the Secretary deems necessary to carry out its responsibilities from governmental agencies and bodies and organizations that act as statistical agents for the insurance industry.

(2) OBLIGATION TO KEEP CONFIDENTIAL.—The Commission and the Secretary shall take such actions as are necessary to ensure that information that either deems confidential or proprietary is disclosed only to authorized individuals working for the Commission or the Secretary.

(3) FAILURE TO COMPLY.—No State insurance or reinsurance program may participate if any governmental agency within that State has refused to provide information requested by the Commission or the Secretary.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

(A) $10,000,000 for fiscal year 2008 for the—

(i) initial expenses in establishing the Commission; and

(ii) initial activities of the Commission that cannot timely be covered by amounts obtained pursuant to section 7(b)(6)(B)(iii), as determined by the Secretary;

(B) such additional sums as may be necessary to carry out subsequent activities of the Commission;

(C) $10,000,000 for fiscal year 2008 for the initial expenses of the Secretary in carrying out the program authorized under section 4; and

(D) such additional sums as may be necessary to carry out subsequent activities of the Secretary under this Act.

(2) OFFSET.—

(A) OBTAINED FROM PURCHASERS.—The Secretary shall provide, to the maximum extent practicable, that an amount equal to any amount appropriated under paragraph (1) is obtained from purchasers of reinsurance coverage under this Act and deposited in the Fund established under section 9.

(B) INCLUSION IN PRICING CONTRACTS.—Any offset obtained under subparagraph (A) shall be obtained by inclusion of a provision for the Secretary's and the Commission's expenses incorporated into the pricing of the contracts for such reinsurance coverage, pursuant to section 7(b)(6)(B)(iii).

(i) TERMINATION.—The Commission shall terminate upon the effective date of the repeal under section 11(c).

SEC. 4. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Homeland Security, shall carry out a program under this Act to make homeowners protection coverage available through contracts for reinsurance coverage under section 7, which shall be made available for purchase only by eligible State programs.

(b) PURPOSE.—The program shall be designed to make reinsurance coverage under this Act available—

(1) to improve the availability and affordability of homeowners' insurance for the purpose of facilitating the pooling, and spreading the risk, of catastrophic financial losses from natural catastrophes;

(2) to improve the solvency and capacity of homeowners' insurance markets;

(3) to encourage the development and implementation of mitigation, prevention, recovery, and rebuilding standards; and

(4) to recommend methods to continuously improve the way the United States reacts and responds to catastrophes, including improvements to the HELP Fund established under section 9.

(c) CONTRACT PRINCIPLES.—Under the program established under this Act, the Secretary shall offer reinsurance coverage through contracts with covered purchasers, which contracts shall—

(1) minimize the administrative costs of the Federal Government; and

(2) provide coverage based solely on insured losses within a State for the eligible State program purchasing the contract.

SEC. 5. QUALIFIED LINES OF COVERAGE.

Each contract for reinsurance coverage made available under this Act shall provide insurance coverage against residential property losses to—

(1) homes (including dwellings owned under condominium and cooperative ownership arrangements); and

(2) the contents of apartment buildings.

SEC. 6. COVERED PERILS.

(a) IN GENERAL.—Each contract for reinsurance coverage made available under this Act shall cover losses insured or reinsured by an eligible State program purchasing the contract that are proximately caused by—

(1) earthquakes;

(2) perils ensuing from earthquakes, including fire and tsunamis;

(3) tropical cyclones having maximum sustained winds of at least 74 miles per hour, including hurricanes and typhoons;

(4) tornadoes;

(5) volcanic eruptions;

(6) catastrophic winter storms; and

(7) any other natural catastrophe peril (not including any flood) insured or reinsured under the eligible State program for which reinsurance coverage under section 7 is provided.

(b) RULEMAKING.—The Secretary shall, by regulation, define the natural catastrophe perils described in subsection (a)(7).

SEC. 7. CONTRACTS FOR REINSURANCE COVERAGE FOR ELIGIBLE STATE PROGRAMS.

(a) ELIGIBLE STATE PROGRAMS.—A program shall be eligible to purchase a contract under this section for reinsurance coverage under this Act only if the State entity authorized to make such determinations certifies to the Secretary that the program complies with the following requirements:

(1) PROGRAM DESIGN.—The program shall be a State-operated—

(A) insurance program that—

(i) offers coverage for—

(I) homes (which may include dwellings owned under condominium and cooperative ownership arrangements); and

(II) the contents of apartments to State residents; and

(ii) is authorized by State law; or

(B) reinsurance program that is designed to improve private insurance markets that offer coverage for—

(i) homes (which may include dwellings owned under condominium and cooperative ownership arrangements); and

(ii) the contents of apartments.

(2) OPERATION.—

(A) IN GENERAL.—The program shall meet the following requirements:

(i) A majority of the members of the governing body of the program shall be public officials.

(ii) The State shall have a financial interest in the program, which shall not include a program authorized by State law or regulation that requires insurers to pool resources to provide property insurance coverage for covered perils.

(iii) The State shall not be eligible for Consumer HELP Fund assistance under section 9 if a State has appropriated money from the State fund and not paid it back to the State fund, with interest.

(iv) Upon receipt of assistance from the Consumer HELP Fund, each reimbursement contract sold by a State shall provide for reimbursements at 100 percent of eligible losses.

(v) A State shall be required to utilize either—

(I) an open rating system that permits insurers to set homeowners' insurance rates without prior approval of the State; or

(II) a rate approval process that requires actuarially sound, risk-based, self-sufficient homeowners' insurance rates.

(B) CERTIFICATION.—A State shall not be eligible for Consumer HELP Fund assistance unless the Secretary can certify that such State is in compliance with the requirement described in clause (v).

(3) TAX STATUS.—The program shall be structured and carried out in a manner so that the program is exempt from all Federal taxation.

(4) COVERAGE.—The program shall cover perils enumerated in section 6.

(5) EARNINGS.—The program may not provide for, nor shall have ever made, any redistribution of any part of any net profits of the program to any insurer that participates in the program.

(6) PREVENTION AND MITIGATION.—

(A) IN GENERAL.—The program shall include prevention and mitigation provisions that require that not less $10,000,000 and not more than 35 percent of the net investment income of the State insurance or reinsurance program be used for programs to mitigate losses from natural catastrophes for which the State insurance or reinsurance program was established.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph, prevention and mitigation shall include methods to reduce losses of life and property, including appropriate measures to adequately reflect—

(i) encouragement of awareness about the risk factors and what can be done to eliminate or reduce them;

(ii) location of the risk, by giving careful consideration of the natural risks for the location of the property before allowing building and considerations if structures are allowed; and

(iii) construction relative to the risk and hazards, which act upon—

(I) State mandated building codes appropriate for the risk;

(II) adequate enforcement of the risk-appropriate building codes;

(III) building materials that prevent or significantly lessen potential damage from the natural catastrophes;

(IV) building methods that prevent or significantly lessen potential damage from the natural catastrophes; and

(V) a focus on prevention and mitigation for any substantially damaged structure, with an emphasis on how structures can be retrofitted so as to make them building code compliant.

(7) REQUIREMENTS REGARDING COVERAGE.—

(A) IN GENERAL.—The program—

(i) may not, except for charges or assessments related to post-event financing or bonding, involve cross-subsidization between any separate property and casualty lines covered under the program unless the elimination of such activity in an existing program would negatively impact the eligibility of the program to purchase a contract for reinsurance coverage under this Act pursuant to paragraph (3);

(ii) shall include provisions that authorize the State insurance commissioner or other State entity authorized to make such a determination to terminate the program if the insurance commissioner or other such entity determines that the program is no longer necessary to ensure the availability of homeowners' insurance for all residents of the State; and

(iii) shall provide that, for any insurance coverage for homes (which may include dwellings owned under condominium and cooperative ownership arrangements) and the contents of apartments that is made available under the State insurance program and for any reinsurance coverage for such insurance coverage made available under the State reinsurance program, the premium rates charged shall be amounts that, at a minimum, are sufficient to cover the full actuarial costs of such coverage, based on consideration of the risks involved and accepted actuarial and rate making principles, anticipated administrative expenses, and loss and loss-adjustment expenses.

(B) APPLICABILITY.—This paragraph shall apply—

(i) before the expiration of the 2-year period beginning on the date of the enactment of this Act, only to State programs which, after January 1, 2008, commence offering insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of paragraph (1); and

(ii) after the expiration of such period, to all State programs.

(8) OTHER QUALIFICATIONS.—

(A) REGULATIONS.—

(i) COMPLIANCE.—The State program shall (for the year for which the coverage is in effect) comply with regulations that shall be issued under this paragraph by the Secretary, in consultation with the National Commission on Catastrophe Preparation and Protection established under section 3.

(ii) CRITERIA.—The regulations issued under clause (i) shall establish criteria for State programs to qualify to purchase reinsurance under this section, which are in addition to the requirements under the other paragraphs of this subsection.

(B) CONTENTS.—The regulations issued under subparagraph (A)(i) shall include requirements that—

(i) the State program shall have public members on its board of directors or have an advisory board with public members;

(ii) the State program provide adequate insurance or reinsurance protection, as applicable, for the peril covered, which shall include a range of deductibles and premium costs that reflect the applicable risk to eligible properties;

(iii) insurance or reinsurance coverage, as applicable, provided by the State program is made available on a nondiscriminatory basis to all qualifying residents;

(iv) any new construction, substantial rehabilitation, and renovation insured or reinsured by the program complies with applicable State or local government building, fire, and safety codes;

(v) the State, or appropriate local governments within the State, have in effect and enforce nationally recognized model building, fire, and safety codes and consensus-based standards that offer risk responsive resistance that is substantially equivalent or greater than the resistance to earthquakes or high winds;

(vi) the State has taken actions to establish an insurance rate structure that takes into account measures to mitigate insurance losses;

(vii) there are in effect, in such State, laws or regulations sufficient to prohibit price gouging, during the term of reinsurance coverage under this Act for the State program in any disaster area located within the State; and

(viii) the State program complies with such other requirements that the Secretary considers necessary to carry out the purposes of this Act.

(b) TERMS OF CONTRACTS.—Each contract under this section for reinsurance coverage under this Act shall be subject to the following terms and conditions:

(1) MATURITY.—The term of the contract shall not exceed 1 year or such longer term as the Secretary may determine.

(2) PAYMENT CONDITION.—The contract shall authorize claims payments for eligible losses only to the eligible State program purchasing the coverage.

(3) RETAINED LOSSES REQUIREMENT.—For each event of a covered peril, the contract shall make a payment for the event only if the total amount of insurance claims for losses, which are covered by qualified lines, occur to properties located within the State covered by the contract, and that result from events, exceeds the amount of retained losses provided under the contract (pursuant to section 8(a)) purchased by the eligible State program.

(4) MULTIPLE EVENTS.—The contract shall—

(A) cover any eligible losses from 1 or more covered events that may occur during the term of the contract; and

(B) provide that if multiple events occur, the retained losses requirement under paragraph (3) shall apply on a calendar year basis, in the aggregate and not separately to each individual event.

(5) TIMING OF ELIGIBLE LOSSES.—Eligible losses under the contract shall include only insurance claims for property covered by qualified lines that are reported to the eligible State program within the 3-year period beginning upon the event or events for which payment under the contract is provided.

(6) PRICING.—

(A) DETERMINATION.—The price of reinsurance coverage under the contract shall be an amount established by the Secretary as follows:

(i) RECOMMENDATIONS.—The Secretary shall take into consideration the recommendations of the Commission in establishing the price, but the price may not be less than the amount recommended by the Commission.

(ii) FAIRNESS TO TAXPAYERS.—The price shall be established at a level that—

(I) is designed to reflect the risks and costs being borne under each reinsurance contract issued under this Act; and

(II) takes into consideration empirical models of natural disasters and the capacity of private markets to absorb insured losses from natural disasters.

(iii) SELF-SUFFICIENCY.—The rates for reinsurance coverage shall be established at a level that annually produces expected premiums that shall be sufficient to pay the expected annualized cost of all claims, loss adjustment expenses, and all administrative costs of reinsurance coverage offered under this section.

(B) COMPONENTS.—The price shall consist of the following components:

(i) RISK-BASED PRICE.—A risk-based price, which shall reflect the anticipated annualized payout of the contract according to the actuarial analysis and recommendations of the Commission.

(ii) ADMINISTRATIVE COSTS.—A sum sufficient to provide for the operation of the Commission and the administrative expenses incurred by the Secretary in carrying out this Act.

(7) INFORMATION.—The contract shall contain a condition providing that the Commission may require a State program that is covered under the contract to submit to the Commission all information on the State program relevant to the duties of the Commission, as determined by the Secretary.

(8) ADDITIONAL CONTRACT OPTION.—

(A) IN GENERAL.—The contract shall provide that the purchaser of the contract may, during a term of such original contract, purchase additional contracts from among those offered by the Secretary at the beginning of the term, subject to the limitations under section 8, at the prices at which such contracts were offered at the beginning of the term, prorated based upon the remaining term as determined by the Secretary.

(B) TIMING.—An additional contract purchased under subparagraph (A) shall provide coverage beginning on a date 15 days after the date of purchase but shall not provide coverage for losses for an event that has already occurred.

(9) OTHERS.—The contract shall contain such other terms as the Secretary considers necessary—

(A) to carry out this Act; and

(B) to ensure the long-term financial integrity of the program under this Act.

(c) PARTICIPATION BY MULTI-STATE CATASTROPHE FUND PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act shall prohibit, and this Act shall be construed to facilitate and encourage, the creation of multi-State catastrophe insurance or reinsurance programs, or the participation by such programs in the program established pursuant to section 4.

(2) REGULATIONS.—The Secretary shall, by regulation, apply the provisions of this Act to multi-State catastrophe insurance and reinsurance programs.

SEC. 8. MINIMUM LEVEL OF RETAINED LOSSES AND MAXIMUM FEDERAL LIABILITY.

(a) AVAILABLE LEVELS OF RETAINED LOSSES.—In making reinsurance coverage available under this Act, the Secretary shall make available for purchase contracts for such coverage that require the sustainment of retained losses from covered perils (as required under section 7(b)(3) for payment of eligible losses) in various amounts, as the Secretary, in consultation with the Commission, determines appropriate and subject to the requirements under subsection (b).

(b) MINIMUM LEVEL OF RETAINED LOSSES.—

(1) CONTRACTS FOR STATE PROGRAMS.—Subject to paragraphs (3) and (4) and notwithstanding any other provision of this Act, a contract for reinsurance coverage under section 7 for an eligible State program that offers insurance or reinsurance coverage described in subparagraph (A) or (B), respectively, of section 7(a)(1), may not be made available or sold unless the contract requires retained losses from covered perils in the following amount:

(A) IN GENERAL.—The State program shall sustain an amount of retained losses of not less than—

(i) the claims-paying capacity of the eligible State program, as determined by the Secretary; and

(ii) an amount, determined by the Secretary in consultation with the Commission, that is the amount equal to the eligible losses projected to be incurred at least once every 50 years on an annual basis from covered perils.

(B) TRANSITION RULE FOR EXISTING PROGRAMS.—

(i) CLAIMS-PAYING CAPACITY.—Subject to clause (ii), in the case of any eligible State program that was offering insurance or reinsurance coverage on the date of the enactment of this Act and the claims-paying capacity of which is greater than the amount determined under subparagraph (A)(i) but less than an amount determined for the program under subparagraph (A)(ii), the minimum level of retained losses applicable under this paragraph shall be the claims-paying capacity of such State program.

(ii) AGREEMENT.—

(I) IN GENERAL.—Clause (i) shall apply to a State program only if the program enters into a written agreement with the Secretary providing a schedule for increasing the claims-paying capacity of the program to the amount determined for the program under subparagraph (A)(ii) over a period not to exceed 5 years.

(II) EXTENSION.—The Secretary may extend the 5-year period under subclause (I) for not more than 5 additional 1-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program.

(III) CONSULTATION.—The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential 1-year extensions.

(C) TRANSITION RULE FOR NEW PROGRAMS.—

(i) 50-YEAR EVENT.—The Secretary may provide that, in the case of an eligible State program that, after January 1, 2008, commences offering insurance or reinsurance coverage, during the 7-year period beginning on the date that reinsurance coverage under section 7 is first made available, the minimum level of retained losses applicable under this paragraph shall be the amount determined for the State under subparagraph (A)(i), except that such minimum level shall be adjusted annually as provided in clause (ii) of this subparagraph.

(ii) ANNUAL ADJUSTMENT.—Each annual adjustment under this clause shall increase the minimum level of retained losses applicable under this subparagraph to an eligible State program described in clause (i) in a manner such that—

(I) during the course of such 7-year period, the applicable minimum level of retained losses approaches the minimum level that, under subparagraph (A)(ii), will apply to the eligible State program upon the expiration of such period; and

(II) each such annual increase is a substantially similar amount, to the extent practicable.

(D) REDUCTION BECAUSE OF REDUCED CLAIMS-PAYING CAPACITY.—

(i) AUTHORITY.—Notwithstanding subparagraphs (A), (B), and (C) or the terms contained in a contract for reinsurance pursuant to such subparagraphs, if the Secretary determines that the claims-paying capacity of an eligible State program has been reduced because of payment for losses due to an event, the Secretary may reduce the minimum level of retained losses.

(ii) TERM OF REDUCTION.—

(I) EXTENSION.—The Secretary may extend the 5-year period for not more than 5 additional 1-year periods if the Secretary determines that losses incurred by the State program as a result of covered perils create excessive hardship on the State program.

(II) CONSULTATION.—The Secretary shall consult with the appropriate officials of the State program regarding the required schedule and any potential 1-year extensions.

(E) CLAIMS-PAYING CAPACITY.—For purposes of this paragraph, the claims-paying capacity of a State-operated insurance or reinsurance program under section 7(a)(1) shall be determined by the Secretary, in consultation with the Commission, taking into consideration the claims-paying capacity as determined by the State program, retained losses to private insurers in the State in an amount assigned by the State insurance commissioner, the cash surplus of the program, and the lines of credit, reinsurance, and other financing mechanisms of the program established by law.

(c) MAXIMUM FEDERAL LIABILITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may sell only contracts for reinsurance coverage under this Act in various amounts that comply with the following requirements:

(A) ESTIMATE OF AGGREGATE LIABILITY.—The aggregate liability for payment of claims under all such contracts in any single year is unlikely to exceed $200,000,000,000 (as such amount is adjusted under paragraph (2)).

(B) ELIGIBLE LOSS COVERAGE SOLD.—Eligible losses covered by all contracts sold within a State during a 12-month period do not exceed the difference between the following amounts (each of which shall be determined by the Secretary in consultation with the Commission):

(i) The amount equal to the eligible loss projected to be incurred once every 500 years from a single event in the State.

(ii) The amount equal to the eligible loss projected to be incurred once every 50 years from a single event in the State.

(2) ANNUAL ADJUSTMENTS.—The Secretary shall annually adjust the amount under paragraph (1)(A) (as it may have been previously adjusted) to provide for inflation in accordance with an inflation index that the Secretary determines to be appropriate.

(d) LIMITATION ON PERCENTAGE OF RISK IN EXCESS OF RETAINED LOSSES.—

(1) IN GENERAL.—The Secretary may not make available for purchase contracts for reinsurance coverage under this Act that would pay out more than 100 percent of eligible losses in excess of retained losses in the case of a contract under section 7 for an eligible State program, for such State.

(2) PAYOUT.—For purposes of this subsection, the amount of payout from a reinsurance contract shall be the amount of eligible losses in excess of retained losses multiplied by the percentage under paragraph (1).

SEC. 9. CONSUMER HURRICANE, EARTHQUAKE, LOSS PROTECTION (HELP) FUND.

(a) ESTABLISHMENT.—There is established within the Treasury of the United States a fund to be known as the Consumer HELP Fund (in this section referred to as the ''Fund'').

(b) CREDITS.—The Fund shall be credited with—

(1) amounts received annually from the sale of contracts for reinsurance coverage under this Act;

(2) any amounts borrowed under subsection (d);

(3) any amounts earned on investments of the Fund pursuant to subsection (e); and

(4) such other amounts as may be credited to the Fund.

(c) USES.—Amounts in the Fund shall be available to the Secretary only for the following purposes:

(1) CONTRACT PAYMENTS.—For payments to covered purchasers under contracts for reinsurance coverage for eligible losses under such contracts.

(2) COMMISSION COSTS.—To pay for the operating costs of the Commission.

(3) ADMINISTRATIVE EXPENSES.—To pay for the administrative expenses incurred by the Secretary in carrying out the reinsurance program under this Act.

(4) TERMINATION.—Upon termination under section 11, as provided in such section.

(d) BORROWING.—

(1) AUTHORITY.—To the extent that the amounts in the Fund are insufficient to pay claims and expenses under subsection (c), the Secretary—

(A) may issue such obligations of the Fund as may be necessary to cover the insufficiency; and

(B) shall purchase any such obligations issued.

(2) PUBLIC DEBT TRANSACTION.—For the purpose of purchasing any such obligations under paragraph (1)—

(A) the Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code; and

(B) the purposes for which such securities are issued under such chapter are hereby extended to include any purchase by the Secretary of such obligations under this subsection.

(3) CHARACTERISTICS OF OBLIGATIONS.—Obligations issued under this subsection shall be in such forms and denominations, bear such maturities, bear interest at such rate, and be subject to such other terms and conditions, as the Secretary shall determine.

(4) TREATMENT.—All redemptions, purchases, and sales by the Secretary of obligations under this subsection shall be treated as public debt transactions of the United States.

(5) REPAYMENT.—Any obligations issued under this subsection shall be—

(A) repaid including interest, from the Fund; and

(B) recouped from premiums charged for reinsurance coverage provided under this Act.

(e) INVESTMENT.—If the Secretary determines that the amounts in the Fund are in excess of current needs, the Secretary may invest such amounts as the Secretary considers advisable in obligations issued or guaranteed by the United States.

(f) PROHIBITION OF FEDERAL FUNDS.—Except for amounts made available pursuant to subsection (d) and section 3(h), no further Federal funds shall be authorized or appropriated for the Fund or for carrying out the reinsurance program under this Act.

SEC. 10. REGULATIONS.

The Secretary, in consultation with the Secretary of the Department of Homeland Security, shall issue any regulations necessary to carry out the program for reinsurance coverage under this Act.

SEC. 11. TERMINATION.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not provide any reinsurance coverage under this Act covering any period after the expiration of the 20-year period beginning on the date of the enactment of this Act.

(b) EXTENSION.—If upon the expiration of the period under subsection (a) the Secretary, in consultation with the Commission, determines that continuation of the program for reinsurance coverage under this Act is necessary or appropriate to carry out the purpose of this Act under section 4(b) because of insufficient growth of capacity in the private homeowners' insurance market, the Secretary shall continue to provide reinsurance coverage under this Act until the expiration of the 5-year period beginning upon the expiration of the period under subsection (a).

(c) REPEAL.—Effective upon the date that reinsurance coverage under this Act is no longer available or in force pursuant to subsection (a) or (b), this Act (except for this section) is repealed.

(d) DEFICIT REDUCTION.—The Secretary shall cover into the General Fund of the Treasury any amounts remaining in the Fund under section 9 upon the repeal of this Act.

SEC. 12. ANNUAL STUDY CONCERNING BENEFITS OF THE ACT.

(a) IN GENERAL.—The Secretary shall, on an annual basis, conduct a study and submit to the Congress a report that—

(1) analyzes the cost and availability of homeowners' insurance for losses resulting from catastrophic natural disasters covered by the reinsurance program under this Act;

(2) describes the efforts of the participating States in—

(A) enacting preparedness, prevention, mitigation, recovery, and rebuilding standards; and

(B) educating the public on the risks associated with natural catastrophe; and

(3) makes recommendations regarding ways to improve the program under this Act and its administration.

(b) CONTENTS.—Each annual study under this section shall also determine and identify, on an aggregate basis—

(1) for each State or region, the capacity of the private homeowners' insurance market with respect to coverage for losses from catastrophic natural disasters;

(2) for each State or region, the percentage of homeowners who have such coverage, the catastrophes covered, and the average cost of such coverage; and

(3) for each State or region, the effects this Act is having on the availability and affordability of such insurance.

(c) TIMING.—Each annual report under this section shall be submitted not later than March 30 of the year after the year for which the study was conducted.

(d) COMMENCEMENT OF REPORTING REQUIREMENT.—The Secretary shall first submit an annual report under this section not later than 2 years after the date of the enactment of this Act.

SEC. 13. GAO STUDY OF THE NATIONAL FLOOD INSURANCE PROGRAM AND HURRICANE-RELATED FLOODING.

(a) IN GENERAL.—In light of the flooding associated with Hurricane Katrina, the Comptroller General of the United States shall conduct a study of the availability and adequacy of flood insurance coverage for losses to residences and other properties caused by hurricane-related flooding.

(b) CONTENTS.—The study under this section shall determine and analyze—

(1) the frequency and severity of hurricane-related flooding during the last 20 years in comparison with flooding that is not hurricane-related;

(2) the differences between the risks of flood-related losses to properties located within the 100-year floodplain and those located outside of such floodplain;

(3) the extent to which insurance coverage referred to in subsection (a) is available for properties not located within the 100-year floodplain;

(4) the advantages and disadvantages of making such coverage for such properties available under the national flood insurance program;

(5) appropriate methods for establishing premiums for insurance coverage under such program for such properties that, based on accepted actuarial and rate making principles, cover the full costs of providing such coverage;

(6) appropriate eligibility criteria for making flood insurance coverage under such program available for properties that are not located within the 100-year floodplain or within a community participating in the national flood insurance program;

(7) the appropriateness of the existing deductibles for all properties eligible for insurance coverage under the national flood insurance program, including the standard and variable deductibles for pre-FIRM and post-FIRM properties, and whether a broader range of deductibles should be established;

(8) income levels of policyholders of insurance made available under the national flood insurance program whose properties are pre-FIRM subsidized properties;

(9) how the national flood program is marketed, if changes can be made so that more people are aware of flood coverage, and how take-up rates may be improved;

(10) the number of homes that are not primary residences that are insured under the national flood insurance program and are pre-FIRM subsidized properties; and

(11) suggestions and means on how the program under this Act can better meet its stated goals as well as the feasibility of expanding the national flood insurance program to cover the perils covered by this Act.

(c) CONSULTATION WITH FEMA.—In conducting the study under this section, the Comptroller General shall consult with the Administrator of the Federal Emergency Management Agency.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Congress regarding the findings of the study not later than 5 months after the date of the enactment of this Act.

SEC. 14. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) COMMISSION.—The term ''Commission'' means the National Commission on Catastrophe Preparation and Protection established under section 3.

(2) COVERED PERILS.—The term ''covered perils'' means the natural disaster perils under section 6.

(3) COVERED PURCHASER.—The term ''covered purchaser'' means an eligible State-operated insurance or reinsurance program that purchases reinsurance coverage made available under a contract under section 7.

(4) DISASTER AREA.—The term ''disaster area'' means a geographical area, with respect to which—

(A) a covered peril specified in section 6 has occurred; and

(B) a declaration that a major disaster exists, as a result of the occurrence of such peril—

(i) has been made by the President of the United States; and

(ii) is in effect.

(5) ELIGIBLE LOSSES.—The term ''eligible losses'' means losses in excess of the sustained and retained losses, as defined by the Secretary after consultation with the Commission.

(6) ELIGIBLE STATE PROGRAM.—The term ''eligible State program'' means—

(A) a State program that, pursuant to section 7(a), is eligible to purchase reinsurance coverage made available through contracts under section 7; or

(B) a multi-State program that is eligible to purchase such coverage pursuant to section 7(c).

(7) PRICE GOUGING.—The term ''price gouging'' means the providing of any consumer good or service by a supplier related to repair or restoration of property damaged from a catastrophe for a price that the supplier knows or has reason to know is greater, by at least the percentage set forth in a State law or regulation prohibiting such act (notwithstanding any real cost increase due to any attendant business risk and other reasonable expenses that result from the major catastrophe involved), than the price charged by the supplier for such consumer good or service immediately before the disaster.

(8) QUALIFIED LINES.—The term ''qualified lines'' means lines of insurance coverage for which losses are covered under section 5 by reinsurance coverage under this Act.

(9) REINSURANCE COVERAGE.—The term ''reinsurance coverage under this Act'' means coverage under contracts made available under section 7.

(10) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(11) STATE.—The term ''State'' means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States.

By Mrs. FEINSTEIN:

S. 933. A bill for the relief of Joseph Gabra and Sharon Kamel; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am offering today private relief legislation to provide lawful permanent residence status to Joseph Gabra and his wife, Sharon Kamel, Egyptian nationals currently living with their children in Camarillo, CA.

Joseph Gabra and Sharon Kamel entered the United States legally on November 1, 1998, on tourist visas. They immediately filed for political asylum based on religious persecution.

The couple fled Egypt because they had been targeted for their active involvement in the Coptic Christian Church in Egypt. Mr. Gabra was repeatedly jailed by Egyptian authorities because of his work for the church. In addition, Ms. Kamel's cousin was murdered and her brother's business was fire-bombed.

When Ms. Kamel became pregnant with their first child, the family was warned by a member of the Muslim brotherhood that if they did not raise their child as a Muslim, the child would be kidnapped and taken from them.

Frightened by these threats, the young family sought refuge in the United States. Unfortunately, when they sought asylum here, Mr. Gabra, who has a speech impediment, had difficulty communicating his fear of persecution to the immigration judge.

The judge denied their petition, telling the family that he did not see why they could not just move to another city in Egypt to avoid the abuse they were suffering. Since the time that they were denied asylum, Ms. Kamel's brother, who lived in the same town and suffered similar abuse, was granted asylum.

I have decided to offer legislation on their behalf because I believe that, without it, this hardworking couple and their four United States citizen children would endure immense and unfair hardship.

First, in the nine years that Mr. Gabra and Ms. Kamel have lived here, they have worked to adjust their status through the appropriate legal channels. They came to the United States on a lawful visa and immediately notified authorities of their intent to seek asylum here. They have played by the rules and followed our laws.

In addition, during those nine years, the couple has had four U.S. citizen children who do not speak Arabic and are unfamiliar with Egyptian culture. If the family is deported, the children would have to acclimate to a different culture, language and way of life.

Jessica, 8, is the Gabra's oldest child, and in the Gifted and Talented Education program in Ventura County. Rebecca, age 7, and Rafael, age 6, are old enough to understand that they would be leaving their schools, their teachers, their friends and their home. Veronica, the Gabra's youngest child, is just 18 months old.

More troubling is the very real possibility that if sent to Egypt, these four American children would suffer discrimination and persecution because of their religion, just as the rest of their family reports.

Mr. Gabra and Ms. Kamel have made a positive life for themselves and their family in the United States. Both have earned college degrees in Egypt and once in the United States, Mr. Gabra passed the Certified Public Accountant Examination on August 4, 2003. Since arriving here, Mr. Gabra has consistently worked to support his family.

The positive impact they have made on their community is highlighted by the fact that I received a letter of support on their behalf signed by 160 members of their church and community. From everything I have learned about the family, we can expect that they will continue to contribute to their community in productive ways.

Given these extraordinary and unique facts, I ask my colleagues to support this private relief bill on behalf of Joseph Gabra and Sharon Kamel.

In addition, I ask unanimous consent that the text of the private relief bill and the numerous letters of support my office has received from members of the Camarillo community be printed in the RECORD.

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

S. 933

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

SECTION 1. ADJUSTMENT OF STATUS.

(a) IN GENERAL.—Notwithstanding any other provision of law, for the purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Joseph Gabra and Sharon Kamel shall each be deemed to have been lawfully admitted to, and remained in, the United States, and shall be eligible for adjustment of status to that of an alien lawfully admitted for permanent residence under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) upon filing an application for such adjustment of status.

(b) APPLICATION AND PAYMENT OF FEES.—Subsection (a) shall apply only if the application for adjustment of status is filed with appropriate fees not later than 2 years after the date of the enactment of this Act.

(c) REDUCTION OF IMMIGRANT VISA NUMBERS.—Upon the granting of permanent resident status to Joseph Gabra and Sharon Kamel, the Secretary of State shall instruct the proper officer to reduce by 2, during the current or subsequent fiscal year, the total number of immigrant visas that are made available to natives of the country of Joseph Gabra and Sharon Kamel's birth under section 202(e) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1152(e), 1153(a)), as applicable.

FEBRUARY 14, 2007.

DEAR MRS. FEINSTEIN: I am writing you today to beg you for help. A friend and fellow parent is scheduled for deportation on Monday 2/19 at 10:00 a.m. Her name is Sharon Malak Kamel Hendy (alien # A75–647–452). I was horrified to hear this information. Sharon is a wonderful person and mother. She has 4 children: Jessica (8) who is in my son's class, Rebecca. (7), Rafael (6) who is in Kindergarten with my daughter and Veronica (18 months). All of the children are American citizens.

Sharon and her husband, Joseph Ayad Gabra Youssef (alien # A75–647–253) came to the United States in 1998. They fled their country of Egypt from terrorist threats on their lives and the life of their unborn child (Jessica) due to the fact that they are Christians. They have pursued all legal avenues, to become citizens. Due to time lines being moved up, both have been notified that deportation will occur. Sharon is the first to receive the notice.

I am mortified that the United States would deport hard working people that try to stay the legal way. To top that off, they parents of 4 beautiful American citizen children.

Please help Sharon and Joseph with extensions and a way for them to obtain green cards.

Thank you for your time and consideration and May God bless you.

Sincerely,

SHARON D. VOPAT-MITCHELL.

FEBRUARY 14, 2007.

DEAR SENATOR FEINSTEIN: I am on staff at Camarillo Community Church as director of Adult Education and Family Ministry and am a licensed minister. I am also a California resident and a navy veteran. I am writing on behalf of the Gabra family who has been a member of this congregation for many years.

Joseph and Sharon Gabra fled Egypt seeking asylum because of the growing persecution of people who identify themselves with Jesus Christ (Christians). This persecution historically included job and housing discrimination but now is becoming more detrimental to the health and safety of Christians. Kidnapping, rape and murder are common responses against Christians by radical, extremists Muslims in Egypt.

Sharon Malak Kamel Hendy (Gabra) has received deportation orders and is scheduled to leave Monday, February 19, 2007. She would leave behind four children, all American citizens. Should she take them to Egypt it would be very likely they would be kidnapped or outright murdered. Joseph's case is still pending but the same logic used to send Sharon back would still be expected in his case.

I see, on a daily basis, the devastating consequences of raising children without a mother or father in the home. I ask you to intervene on behalf of this family, particularly the American raised children. Please use your influence as a Senator and a spokesperson for the people of California to keep Sharon in the United States and eventually giving the Gabra family permanent status.

Thank you for your consideration.

Very respectfully,

WILLIAM J. MOYER.

Re political asylum applications of Joseph Ayad Gabra Youssef and Sharon Malak Kamel Hendy.

CAMARILLO, CA,
February 14, 2007.

Senator DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: I am asking your immediate attention to a bureaucratic problem which may put one fine Christian family in terrorist hands. Time is of the essence as one family member (the mother of their 4 children—ages 8, 7, 6 and 18 mos.), who is scheduled for deportation on 2–19–2007. They only received the notice on 2–6–2007; our church family became aware of this problem on 2–11–2007. For your information other family members have already been granted political asylum in the United States. They have complied with all of the laws. Again, this is a problem of bureaucratic overload and we need real human intervention from your office to prevent unnecessary family separation, let alone possible death due to their religion convictions.

I plead with your office to grant an extension as they have been working since November 1, 1998 on this goal to become citizens of the United States; from my perspective, their arrival occurred three years before 9–11–2001 and they knew their danger. I already call them citizens of America from my heart as they have shown by their actions and

commitment to be such with pride and honor.

Thank you for your immediate attention on behalf of this beautiful family as your action would show the real intent of the Lady of Liberty in New York Harbor as our country is a land of laws and integrity.

Most sincerely,

TONI WEBSTER.

CAMARILLO COMMUNITY CHURCH,
February 12, 2007.

TO WHOM IT MAY CONCERN: Please review this deportation possibility and if possible please help us with a reprieve.

Sharon Malak Kamel Hendy (A75 647 452) has four small children all born in America and is being asked to leave our country back to Egypt. This seems so unreasonable to send a mother of four children to a country that is unfriendly to her religious preference. To separate her from her husband and children seems so un-American.

Attached is a Summary of the political asylum for you to review. She has a deportation date of the 19th of February.

Thank you for any help you can give this family. They have become a part of our church family at Camarillo Community Church, 1322 Las Posas Road, Camarillo, CA 93010.

DARYL LUNDBERG,
Pastor of Membership Care.

KEITH JAMES,
Camarillo, CA, February 15, 2007.

Re Joseph & Sharon Gabra.

Senator DIANE FEINSTEIN,
U.S. Senate,
San Francisco, CA.

DEAR MS. FEINSTEIN, I'm writing to you on behalf of Joseph and Sharon Gabra, who are good friends of mine and fellow members of Camarillo Community Church. The Gabras are Egyptian nationals who fled Egypt in 1998 due to religious persecution. As Christians in a Muslim society, they experienced terrible persecution; they were threatened by government officials to recant their beliefs and embrace Islam, or suffer the consequences, which meant their child would be taken from them and placed in a home where the child would be raised in Islam. They came to the United States to raise their family and begin a new life. Sharon was pregnant with their first child when they arrived here on a visitor's permit.

Since coming to our country they have had four children, one of whom is a good friend of my daughter, McKenna. The Gabras are very involved in our church community, always willing to lend a hand in the children's ministries. Joseph is a college-educated accountant and one of the hardest working men I know, and Sharon has a degree in social work. Both are very well regarded by the people of our church.

For several years the Gabras have worked diligently to become U.S. citizens, and have done so in all the right ways, but it appears they are finally out of options. Sharon received a notice last week that she will be deported on February 19, at which time she will be forced to leave her family behind. This means four children under the age of eight, including an 18-month-old, will be left in the care of their father, who must continue to work full-time to support his family.

With less than a week before Sharon's deportation, I'm writing to ask that you please stand for this family, that you would intercede on behalf of Sharon Gabra give her family a real chance at achieving their dream of a home in the United States. They are the kind of people we hope will become American citizens—good, honest, moral, and hard-working. Thank you for your consideration.

Best regards,

KEITH JAMES.

CAMARILLO COMMUNITY CHURCH,
Camarillo, CA.

TO THE HON. SENATOR DIANNE FEINSTEIN: I am writing in regard to Joseph Ayad Gabra Youssef (A 75 647 253) and his wife Sharon Malak Kamel Hendy (A 75 647 452). This Christian couple has applied for asylum in the United States because their lives were threatened by Moslem terrorists in their home country of Egypt. They fled Egypt in 1998 when Sharon was pregnant with their first child, hoping to find a safe place to raise their children. They have been seeking asylum here in the U.S, but the process has been slow and difficult. They now have four children and the children are all citizens of the United States, having been born here. This is a wonderful young family that has become a valued part of our church and community, but they are now being threatened with immediate deportation. Our entire church congregation is very concerned for the welfare of this family and fearful of the consequence of their return to Egypt. Please, we earnestly request your help in assisting this family.

Sincerely,

RALPH RITTENHOUSE,
Senior Pastor.

CAMARILLO COMMUNITY CHURCH,
February 14, 2007.

SENATOR BARBARA FEINSTEIN: I faxed a note to you yesterday and apparently the bottom portion of the note was cut off in the fax so I am resending the fax with this, a more detailed letter. Yesterday's note was written in a hurry because of the urgent nature of this request.

I am a Licensed Minister, Pastor of Children's Ministries at Camarillo Community Church in Camarillo, California. I have held this position for two years and prior to that I was the director of a Preschool and After School Program at Trinity Presbyterian Church in Camarillo, California. I have a true love and desire to see young children grow to become confident, successful adults and know that it is only in building up the child that we avoid the difficult task of rebuilding the broken man. The issue I am bringing to your attention deals with the brokenness of man which is now impacting the lives of four children and their parents who have become very precious to me and the community of Camarillo.

It is hard for me, as an American, to truly grasp the dangers Christians face in the Muslim world; however, the threats that caused Sharon Malak Kamel Hendy (A 75 647 253) and Joseph Ayad Gabra Youssef (A 75 647 452) to flee Egypt were real and continue to be present for them should they be forced to leave our country. The evil caused by children who have been raised in hatred, towards Americans and/or non Muslims, who have now become adults in leadership—terrorists—is REAL. Until we can break the cycle of hatred and replace it with love and respect one for another regardless of birth place or faith we will continue to struggle with adults filled with evil. In the meantime we must do all we can to protect those in our area from the evils of terrorism.

Although the Gabra family has been active within our church, it was not until Sunday, February 11, 2007 that we became aware of the gravity of their situation. They have been trying to handle the issue on their own so as not to be a burden to anyone. They came to America for Safety rather than financial gain and do not wish to be a burden on our society. I do not understand the legal hoops that have to be jumped to keep Sharon from deportation on February 19, 2007—but I do know that the family has been attempting to meet the requirements and jump through the hoops ever since their arrival in 1999. It seems that they have, up to this point, received less than appropriate or fair treatment in our court system.

The children, Jessica, age 8, Rebecca, age 7, Raphael, age 6 and Veronica, 18 months are all American born, English speaking children. They fit the profile of typical American children, attending public school, active in our children's ministries programs on Sundays and weekdays for AWANA and other children's events. Without knowledge of their parent's birthplace, one would never know there was a difference between them and their American born peers. They are a family who treasures one another and desires to be a blessing to those around them in a safe society. The deportation of their mother to Egypt—a place where her, her husband's, and the life of their unborn first child were threatened unless they turn from Christianity and return to Islam—would be devastating.

It is my hope that you will be able to use your legal authority to stop the deportation scheduled for February 19, 2007. Know that there are many in Camarillo depending on your leadership to help in this matter. We commit to follow the laws of our country in order to bring this family to safety. We are asking for the time to help them fulfill the requirements.

Sincerely,

ELAINE FRANCISCO,
Pastor of Children's Ministries.

FEBRUARY 12, 2007.

DEAR SENATOR FEINSTEIN: I hope that you will please take the time to read this letter for immediate help to the Gabra family. The mother of this family is scheduled to be deported on 2/19/2007 and the father fears the same. The big problem is that the family has four children between the ages of 8 years and 18 months and are all American Citizens. This family fled Egypt in 1998 because they were pregnant with their first child and were threatened to have their child taken from them because of their Christian beliefs. They came on a visitor's visa and did all the required steps to become legal. After 9/11/2001 they thought they would have a better chance, but by then they were allowing only one Judge to review the cases instead of 3 which shortened the time for accomplishing the same number of cases. By the law they became illegal and were subject to deportation.

Only the Mother, Sharon Malak Kamel Hendy (Alien Number: A 75–647–452) received notice of deportation. She is to be deported 2/19/2007. This would leave her husband Joseph Ayad Gabra Youssef (Alien Number: A 75–647–253) here to work and care for 4 children from age 8 yrs. to 18 months. His deportation notice will probably come next and this will lead to danger for the children. If this happens, the children would suffer the most in Egypt from the Terrorists because they only speak English.

I have taught Sunday school to 3 of their children and they are a lovely, hard working, honest family and want to become citizens. If they are deported their lives are in danger. Also, as Christians, they will not be able to find employment. The children are as follows: Jessica Gabra—8 years; Rebecca Gabra—7 years; Rafael Gabra—6 years; Veronica Gabra—18 months.

Please help us to get an extension for Sharon and a way for them to get green cards. They are the kind of people our country would be proud to have as citizens.

I'm pleading with you to help us. I know the time is short, but they just received the

deportation notice 6 days ago. We would be forever in your debt if you can help the Gabra Family. This family is fearing for their lives and safety right now.

Sincerely,

LINDA DAVIS.

JOHN F. LAUBACHER,
CERTIFIED PUBLIC ACCOUNTANT,
Camarillo, CA, Feb. 11, 2007.

SENATOR DIANNE FEINSTEIN.

DEAR SENATOR FEINSTEIN: I am writing this on behalf of my friend and fellow CPA Joseph Gabra and his family. His wife has been ordered to appear on Feb. 19th for deportation. I have known the Gabra family for a number of years and am writing in hopes that you will intervenue on his wife's behalf and either: a. Seek a stay of execution of the order to deport Mrs. Gabra; or b. Help them to arrange a green card to allow her to remain in the U.S.

Mr. Gabra is a great asset to our community. He is employed by a client of mine as an accountant and I have seen firsthand the tremendous integrity and thoroughness that he brings to his job each day. He is a wonderful example to his co-workers and the general public.

Joseph was not always working as an accountant here even though he is a CPA in his native country. Finding work as an accountant was difficult due to a speech impediment. But he has always been a hard worker, taking manual labor jobs to stay off any public assistance. He has now been working in his field and my client is thrilled with the job he is doing. In addition, he travels to Cal State Northridge to get help with his speech problem.

Mrs. Gabra is a homemaker and takes care of their four children that range from 8 years old to 18 months. She is involved at our church as well in a number of programs. The family has been a great addition to my church and the Camarillo community in general.

But if Mrs. Gabra is deported, the damage will not just be to the community. There is danger that faces the family if they are returned to Egypt. Mr. Gabra will not be able to find work there because he is a Christian. The family will face incredible persecution. The kids are U.S. citizens who will suffer if they are sent to Egypt because they do not speake the language and they are Christians, not Muslim. They could be forced to convert to Islam or be killed. The girls face a barbaric ritual of female circumcision. They are dedicated to each other as a family. So, while Mrs. Gabra is the only one being forced to leave at this time, splitting up the family into two countries is simply not an option.

Senator, Mr. Gabra is a man of faith. He is confident that God will provide a rcsolution to this problem. I, too, am a man of faith. But I believe that perhaps God will use you to provide the miracle that the Gabra family needs now in order to stay together. I am asking you to intercede on their behalf.

Thank you and your staff for taking the time to read this and consider my request. He's a good man. They are a good family. And they deserve better than the death sentence the U.S. Government is giving them. His letter follows along with the order from the Dept. of Homeland Security. Please help.

Very truly yours,

JOHN F. LAUBACHER, CPA.

By Mr. NELSON of Florida (for himself and Mr. MARTINEZ):

S. 934. A bill to amend the Florida National Forest Land Management Act of 2003 to authorize the conveyance of an additional tract of National Forest System land under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. NELSON of Florida. Mr. President, I rise today to introduce legislation that helps the U.S. Forest Service to protect sensitive and precious forest by selling developed land in Leon County, FL, in order to purchase at-risk land in the heart of our national forests.

Specifically, this bill allows for the sale of tract W–1979, which is 114 acres in Tallahassee, the proceeds of which are specifically designated to purchase private inholdings in the Apalachicola National Forest. The Forest Service believes that W–1979 has lost its national forest character and is unmanageable; the land will be sold to Leon County, where it will help the continued advancement of Blueprint 2000, a series of community initiatives to improve Tallahassee and Leon County. By selling this land on the outskirt of the Apalachicola National Forest, the Forest Service can acquire precious land in the heart of the forest that could be lost to development.

This legislation also gives the U.S. Forest Service in Florida the same flexibility to manage lands and capital that many other states have. Previously, whenever National Forest land was sold, the funds could only be used to purchase more land, while many important infrastructure projects went undone. With passage of this bill, proceeds only from the sale of ''non-green'' lands can go towards capitol improvements, such as administrative facilities that help the Forest Service manage the Ocala, Apalachicola, and Osceola National Forests. These non-green lands have already been developed with urban improvements, and no longer align with the goals of the U.S. Forest Service.

Congressman CRENSHAW and BOYD have introduced similar legislation in the House of Representatives. I hope that we can quickly pass these bills and help Leon County and the Forest Service.

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

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

S. 934

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

SECTION 1. CONVEYANCES UNDER FLORIDA NATIONAL FOREST LAND MANAGEMENT ACT OF 2003.

(a) ADDITIONAL CONVEYANCE AUTHORIZED.—Subsection (b) of section 3 of the Florida National Forest Land Management Act of 2003 (Public Law 108–152; 117 Stat. 1919) is amended—

(1) by striking ''and'' at the end of paragraph (17);

(2) by redesignating paragraph (18) as paragraph (19);

(3) by inserting after paragraph (17) the following new paragraph:

''(18) tract W-1979, located in Leon County consisting of approximately 114 acres, within T. 1 S., R. 1 W., sec. 25; and''; and

(4) in paragraph (19) (as redesignated by paragraph (2)), by striking ''(17)'' and inserting ''(18)''.

(b) ADDITIONAL USE OF PROCEEDS.—Paragraph (2) of subsection (i) of such section (117 Stat. 1921) is amended—

(1) by striking ''and'' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

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

''(C) acquisition, construction, or maintenance of administrative improvements for units of the National Forest System in the State.''.

(c) LIMITATIONS ON USE OF PROCEEDS.—Subsection (i) of such section is further amended by adding at the end the following new paragraphs:

''(3) GEOGRAPHICAL AND USE RESTRICTION FOR CERTAIN CONVEYANCE.—Notwithstanding paragraph (2), proceeds from the sale or exchange of the tract described in subsection (b)(18) shall be used exclusively for the purchase of inholdings in the Apalachicola National Forest.

''(4) RESTRICTION ON USE OF PROCEEDS FOR ADMINISTRATIVE IMPROVEMENTS.—Proceeds from any sale or exchange of land under this Act may be used for administrative improvements, as authorized by paragraph (2)(C), only if the land generating the proceeds was improved with infrastructure.''.

By Mr. NELSON of Florida (for himself, Mr. HAGEL, Mr. BINGAMAN, Ms. MIKULSKI, Mrs. LINCOLN, Mr. BIDEN, Mr. VITTER, Mr. DOMENICI, Mr. KERRY, Mr. MARTINEZ, Mr. SALAZAR, Ms. SNOWE, Mr. BROWN, Mrs. FEINSTEIN, Mrs. MURRAY, and Mrs. CLINTON):

S. 935. A bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes; to the Committee on Armed Services.

Mr. NELSON of Florida. Mr. President, on behalf of myself and Senators HAGEL, BINGAMAN, KERRY, MIKULSKI, LINCOLN, BIDEN, VITTER, DOMENICI, MARTINEZ, SALAZAR, SNOWE, BROWN, FEINSTEIN, MURRAY, and CLINTON, I am honored to introduce legislation today that we are convinced is necessary to fix a long-standing problem in our military survivors benefits system.

President Lincoln's words are as relevant and moving today as they were during the Civil War: ''as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan.''

Our Nation continues to be engaged in a violent struggle against brutal and vicious enemies around the world. Sadly, Americans are lost every day. We must never forget that the families left behind by our courageous men and women in uniform bear the greatest pain. Their survivors face a life forever altered, and a future left unclear. They suffer the greatest cost of the ultimate sacrifice, and the nation that asked for that sacrifice must honor it.

Back in 1972, Congress established the military survivors' benefits plan—

or SBP—to provide retirees' survivors an annuity to protect their income. This benefit plan is a voluntary program purchased by the retiree or issued automatically in the case of servicemembers who die while on active duty. Retired servicemembers pay for this benefit from their retired pay. Upon their death, their spouse or dependent children can receive up to 55 percent of their retired pay as an annuity.

For over five years, I've been talking about the unfair and painful offset between SBP and the Department of Veterans Affairs' Dependency and Indemnity Compensation, or DIC, which is received by the surviving spouse of an active duty or retired military member who dies from a service-connected cause. Under current law, even if the surviving spouse of such a servicemember is eligible for SBP, that purchased annuity is reduced by the amount of DIC received. Another inequity in the current system is the delayed effective date for ''paid-up status'' under SBP. We should act to correct these injustices this year.

We have made progress, but even with the important changes made over the last few years, the offset still fails to take care of our military widows and surviving children the way it should. We have considered and adopted increased death gratuity benefits for the survivors of our troops lost in this war, and we have changed the law to enable these survivors to automatically enroll in SBP. However, now we see the pain caused when at the same moment a widow is enrolled in SBP she is hit with the DIC offset.

The SBP offset is no less painful for the survivors of our 100 percent disabled military retirees. SBP is a purchased annuity plan. Before coming to the U.S. Senate, I served as Insurance Commissioner for the State of Florida, and I know of no other purchased annuity program that can then turn around and refuse to pay you the benefits you purchased on the grounds that you are getting a different benefit from somewhere else.

Our Federal civil servants receive both their purchased survivor income protection annuity and any disability compensation for which they may be entitled—without offset. Why on earth would we treat our 100 percent disabled military retirees any differently, especially after they have given the best years of their lives and their health in service to the Nation?

Let me be clear about this: survivors of servicemembers are entitled in law to automatic enrollment in SBP; 100 percent disabled military retirees purchase SBP. Survivors stand to lose most or even all of the benefits under SBP only because they are also entitled to DIC.

This legislation also accelerates an improvement we made earlier to the SBP program. We have already agreed that military retirees who have reached the age of 70 and paid their SBP premiums for thirty years should stop paying a premium, but we delayed the effective date for this relief until 2008. We should not delay their relief any further.

The United States owes its very existence to generations of soldiers, sailors, airmen, and marines who have sacrificed throughout our history to keep us free. The sacrifices of today are no less important to American liberty or tragic when a life is lost in the defense of liberty everywhere.

We owe them and their surviving family members a great debt.

Unfortunately, it is too often that we fall short on this care. We must meet this obligation with the same sense of honor as was the service they and their families have rendered.

We will continue to work to do right by those who have given this Nation their all, and especially for the loved ones they may leave to our care.

I appreciate the co-sponsorship of my colleagues—Senators HAGEL, BINGAMAN, KERRY, MIKULSKI, LINCOLN, BIDEN, VITTER, DOMENICI, MARTINEZ, SALAZAR, SNOWE, BROWN, FEINSTEIN, MURRAY, and CLINTON—and look forward to working with my colleagues in the days ahead.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 935

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

SECTION 1. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—

(1) IN GENERAL.—Subchapter II of chapter 73 of title 10, United States Code, is amended as follows:

(A) In section 1450, by striking subsection (c).

(B) In section 1451(c)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) CONFORMING AMENDMENTS.—Such subchapter is further amended as follows:

(A) In section 1450—

(i) by striking subsection (e); and

(ii) by striking subsection (k).

(B) In section 1451(g)(1), by striking subparagraph (C).

(C) In section 1452—

(i) in subsection (f)(2), by striking ''does not apply—'' and all that follows and inserting ''does not apply in the case of a deduction made through administrative error.''; and

(ii) by striking subsection (g).

(D) In section 1455(c), by striking '', 1450(k)(2),''.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (f) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (f) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) REPEAL OF AUTHORITY FOR OPTIONAL ANNUITY FOR DEPENDENT CHILDREN.—Section 1448(d)(2) of such title is amended—

(1) by striking ''DEPENDENT CHILDREN.—'' and all that follows through ''In the case of a member described in paragraph (1),'' and inserting ''DEPENDENT CHILDREN.—In the case of a member described in paragraph (1),''; and

(2) by striking subparagraph (B).

(e) RESTORATION OF ELIGIBILITY FOR PREVIOUSLY ELIGIBLE SPOUSES.—The Secretary of the military department concerned shall restore annuity eligibility to any eligible surviving spouse who, in consultation with the Secretary, previously elected to transfer payment of such annuity to a surviving child or children under the provisions of section 1448(d)(2)(B) of title 10, United States Code, as in effect on the day before the effective date provided under subsection (f). Such eligibility shall be restored whether or not payment to such child or children subsequently was terminated due to loss of dependent status or death. For the purposes of this subsection, an eligible spouse includes a spouse who was previously eligible for payment of such annuity and is not remarried, or remarried after having attained age 55, or whose second or subsequent marriage has been terminated by death, divorce or annulment.

(f) EFFECTIVE DATE.—The sections and the amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 2. EFFECTIVE DATE OF PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

(a) SURVIVOR BENEFIT PLAN.—Section 1452(j) of title 10, United States Code, is amended by striking ''October 1, 2008'' and inserting ''October 1, 2007''.

(b) RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN.—Section 1436a of such title is amended by striking ''October 1, 2008'' and inserting ''October 1, 2007''.

By Mr. DURBIN (for himself and Mr. SPECTER):

S. 936. A bill to reform the financing of Senate elections, and for other purposes; to the Committee on Finance.

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

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

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 ''Fair Elections Now Act''.

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

TITLE I—FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS

Subtitle A—Fair Elections Financing Program

SEC. 101. FINDINGS AND DECLARATIONS.

(a) UNDERMINING OF DEMOCRACY BY CAMPAIGN CONTRIBUTIONS FROM PRIVATE SOURCES.—The Senate finds and declares that the current system of privately financed campaigns for election to the United States Senate has the capacity, and is often perceived by the public, to undermine democracy in the United States by—

(1) creating a conflict of interest, perceived or real, by encouraging Senators to accept large campaign contributions from private interests that are directly affected by Federal legislation;

(2) diminishing or giving the appearance of diminishing a Senator's accountability to constituents by compelling legislators to be accountable to the major contributors who finance their election campaigns;

(3) violating the democratic principle of ''one person, one vote'' and diminishing the meaning of the right to vote by allowing monied interests to have a disproportionate and unfair influence within the political process;

(4) imposing large, unwarranted costs on taxpayers through legislative and regulatory outcomes shaped by unequal access to lawmakers for campaign contributors;

(5) driving up the cost of election campaigns, making it difficult for qualified candidates without personal wealth or access to campaign contributions from monied individuals and interest groups to mount competitive Senate election campaigns;

(6) disadvantaging challengers, because large campaign contributors tend to donate their money to incumbent Senators, thus causing Senate elections to be less competitive; and

(7) burdening incumbents with a preoccupation with fundraising and thus decreasing the time available to carry out their public responsibilities.

(b) ENHANCEMENT OF DEMOCRACY BY PROVIDING ALLOCATIONS FROM THE SENATE FAIR ELECTIONS FUND.—The Senate finds and declares that providing the option of the replacement of private campaign contributions with allocations from the Senate Fair Elections Fund for all primary, runoff, and general elections to the Senate would enhance American democracy by—

(1) eliminating the potentially inherent conflict of interest created by the private financing of the election campaigns of public officials, thus restoring public confidence in the integrity and fairness of the electoral and legislative processes;

(2) increasing the public's confidence in the accountability of Senators to the constituents who elect them;

(3) helping to eliminate access to wealth as a determinant of a citizen's influence within the political process and to restore meaning to the principle of ''one person, one vote'';

(4) reversing the escalating cost of elections and saving taxpayers billions of dollars that are (or that are perceived to be) currently allocated based upon legislative and regulatory agendas skewed by the influence of campaign contributions;

(5) creating a more level playing field for incumbents and challengers by creating genuine opportunities for all Americans to run for the Senate and by encouraging more competitive elections; and

(6) freeing Senators from the incessant preoccupation with raising money, and allowing them more time to carry out their public responsibilities.

SEC. 102. ELIGIBILITY REQUIREMENTS AND BENEFITS OF FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS.

The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

''TITLE V—FAIR ELECTIONS FINANCING OF SENATE ELECTION CAMPAIGNS

''SEC. 501. DEFINITIONS.

''In this title:

''(1) ALLOCATION FROM THE FUND.—The term 'allocation from the Fund' means an allocation of money from the Senate Fair Elections Fund to a participating candidate pursuant to sections 510 and 511.

''(2) FAIR ELECTIONS QUALIFYING PERIOD.—The term 'fair elections qualifying period' means, with respect to any candidate for Senator, the period—

''(A) beginning on the date on which the candidate files a statement of intent under section 503(a)(1); and

''(B) ending on the date that is 30 days before—

''(i) the date of the primary election; or

''(ii) in the case of a State that does not hold a primary election, the date prescribed by State law as the last day to qualify for a position on the general election ballot.

''(3) FAIR ELECTIONS START DATE.—The term 'fair elections start date' means, with respect to any candidate, the date that is 180 days before—

''(A) the date of the primary election; or

''(B) in the case of a State that does not hold a primary election, the date prescribed by State law as the last day to qualify for a position on the general election ballot.

''(4) FUND.—The term 'Fund' means the Senate Fair Elections Fund established by section 502.

''(5) IMMEDIATE FAMILY.—The term 'immediate family' means, with respect to any candidate—

''(A) the candidate's spouse;

''(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

''(C) the spouse of any person described in subparagraph (B).

''(6) INDEPENDENT CANDIDATE.—The term 'independent candidate' means a candidate for Senator who is—

''(A) not affiliated with any political party; or

''(B) affiliated with a political party that—

''(i) in the case of a candidate in a State that holds a primary election for Senator, does not hold a primary election for Senator; or

''(ii) in the case of a candidate in a State that does not hold primary election for Senator, does not have ballot status in such State.

''(7) MAJOR PARTY CANDIDATE.—

''(A) IN GENERAL.—The term 'major party candidate' means a candidate for Senator who is affiliated with a major political party.

''(B) MAJOR POLITICAL PARTY.—The term 'major political party' means, with respect to any State, a political party of which a candidate for the office of Senator, President, or Governor in the preceding 5 years, received, as a candidate of that party in such State, 25 percent or more of the total number of popular votes cast for such office in such State.

''(8) MINOR PARTY CANDIDATE.—The term 'minor party candidate' means a candidate for Senator who is affiliated with a political party that—

''(A) holds a primary for Senate nominations; and

''(B) is not a major political party.

''(9) NONPARTICIPATING CANDIDATE.—The term 'nonparticipating candidate' means a candidate for Senator who is not a participating candidate.

''(10) PARTICIPATING CANDIDATE.—The term 'participating candidate' means a candidate for Senator who is certified under section 508 as being eligible to receive an allocation from the Fund.

''(11) QUALIFYING CONTRIBUTION.—The term 'qualifying contribution' means, with respect to a candidate, a contribution that—

''(A) is in the amount of $5 exactly;

''(B) is made by an individual who—

''(i) is a resident of the State with respect to which the candidate is seeking election; and

''(ii) is not prohibited from making a contribution under this Act;

''(C) is made during the fair elections qualifying period; and

''(D) meets the requirements of section 505(c).

''(12) SEED MONEY CONTRIBUTION.—The term 'seed money contribution' means a contribution or contributions by any 1 individual—

''(A) aggregating not more than $100; and

''(B) made to a candidate after the date of the most recent previous election for the office which the candidate is seeking and before the date the candidate has been certified as a participating candidate under section 508(a).

''SEC. 502. SENATE FAIR ELECTIONS FUND.

''(a) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the 'Senate Fair Elections Fund'.

''(b) AMOUNTS HELD BY FUND.—The Fund shall consist of the following amounts:

''(1) PROCEEDS FROM RECOVERED SPECTRUM.—Proceeds deposited into the Fund under section 309(j)(8)(E)(ii)(II) of the Communications Act of 1934.

''(2) EXCESS SPECTRUM USER FEES.—Amounts deposited in the Fund under section 315A(f)(2)(B)(ii) of the Communications Act of 1934.

''(3) VOLUNTARY CONTRIBUTIONS.—Voluntary contributions to the fund.

''(4) QUALIFYING CONTRIBUTIONS, PENALTIES, AND OTHER DEPOSITS.—Amounts deposited into the Fund under—

''(A) section 504(2) (relating to limitation on amount of seed money);

''(B) section 505(d) (relating to deposit of qualifying contributions);

''(C) section 506(c) (relating to exceptions to contribution requirements);

''(D) section 509(c) (relating to remittance of allocations from the Fund);

''(E) section 513 (relating to violations); and

''(F) any other section of this Act.

''(5) INVESTMENT RETURNS.—Interest on, and the proceeds from, the sale or redemption of, any obligations held by the Fund under subsection (c).

''(c) INVESTMENT.—The Commission shall invest portions of the Fund in obligations of the United States in the same manner as provided under section 9602(b) of the Internal Revenue Code of 1986.

''(d) USE OF FUND.—

''(1) IN GENERAL.—The sums in the Senate Fair Elections Fund shall be used to make allocations to participating candidates in accordance with sections 510 and 511.

''(2) INSUFFICIENT AMOUNTS.—Under regulations established by the Commission, rules similar to the rules of section 9006(c) of the Internal Revenue Code shall apply.

''SEC. 503. ELIGIBILITY FOR ALLOCATIONS FROM THE FUND.

''(a) IN GENERAL.—A candidate for Senator is eligible to receive an allocation from the Fund for any election if the candidate meets the following requirements:

''(1) The candidate files with the Commission a statement of intent to seek certification as a participating candidate under this title during the period beginning on the fair elections start date and ending on the last day of the fair elections qualifying period.

''(2) The candidate has complied with the seed money contribution requirements of section 504.

''(3) The candidate meets the qualifying contribution requirements of section 505.

''(4) Not later than the last day of the fair elections qualifying period, the candidate files with the Commission an affidavit signed by the candidate and the treasurer of the candidate's principal campaign committee declaring that the candidate—

''(A) has complied and, if certified, will comply with the contribution and expenditure requirements of section 506;

''(B) if certified, will comply with the debate requirements of section 507;

''(C) if certified, will not run as a nonparticipating candidate during such year in any election for the office that such candidate is seeking; and

''(D) has either qualified or will take steps to qualify under State law to be on the ballot.

''(b) GENERAL ELECTION.—Notwithstanding subsection (a), a candidate shall not be eligible to receive an allocation from the Fund for a general election or a general run off election unless the candidate's party nominated the candidate to be placed on the ballot for the general election or the candidate qualified to be placed on the ballot as an independent candidate, and the candidate is qualified under State law to be on the ballot.

''SEC. 504. SEED MONEY CONTRIBUTION REQUIREMENT.

''A candidate for Senator meets the seed money contribution requirements of this section if the candidate meets the following requirements:

''(1) SEPARATE ACCOUNTING.—The candidate maintains seed money contributions in a separate account.

''(2) LIMITATION ON AMOUNT.—The candidate deposits into the Senate Fair Elections Fund or returns to donors an amount equal to the amount of any seed money contributions which, in the aggregate, exceed the sum of—

''(A) in the case of an independent candidate, the amount which the candidate would be entitled to under section 510(c)(3); and

''(B) in the case of any other candidate, the amount which the candidate would be entitled to under section 510(c)(1).

''(3) USE OF SEED MONEY.—The candidate makes expenditures from seed money contributions only for campaign-related costs.

''(4) RECORDS.—The candidate maintains a record of the name and street address of any contributor of a seed money contribution and the amount of any such contribution.

''(5) REPORT.—Unless a seed money contribution or an expenditure made with a seed money contribution has been reported previously under section 304, the candidate files with the Commission a report disclosing all seed money contributions and expenditures not later than 48 hours after receiving notification of the determination with respect to the certification of the candidate under section 508.

''SEC. 505. QUALIFYING CONTRIBUTION REQUIREMENT.

''(a) IN GENERAL.—A candidate for Senator meets the requirement of this section if, during the fair elections qualifying period, the candidate obtains a number of qualifying contributions equal to the sum of—

''(1) 2,000; plus

''(2) 500 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

''(b) SPECIAL RULE FOR CERTAIN CANDIDATES.—

''(1) IN GENERAL.—Notwithstanding subsection (a), in the case of a candidate described in paragraph (2), the requirement of this section is met if, during the fair elections qualifying period, the candidate obtains a number of qualifying contributions equal to 150 percent of the number of qualifying contributions that such candidate would be required to obtain without regard to this subsection.

''(2) CANDIDATE DESCRIBED.—A candidate is described in this paragraph if—

''(A) the candidate is a minor party candidate or an independent candidate; and

''(B) in the most recent general election involving the office of Senator, President, or Governor in the State in which the candidate is seeking office, the candidate and all candidates of the same political party as such candidate received less than 5 percent of the total number of votes cast for each such office.

''(c) REQUIREMENTS RELATING TO RECEIPT OF QUALIFYING CONTRIBUTION.—Each qualifying contribution—

''(1) may be made by means of a personal check, money order, debit card, or credit card;

''(2) shall be payable to the Senate Fair Elections Fund;

''(3) shall be accompanied by a signed statement containing—

''(A) the contributor's name and home address;

''(B) an oath declaring that the contributor—

''(i) is a resident of the State in which the candidate with respect to whom the contribution is made is running for election;

''(ii) understands that the purpose of the qualifying contribution is to show support for the candidate so that the candidate may qualify for public financing;

''(iii) is making the contribution in his or her own name and from his or her own funds;

''(iv) has made the contribution willingly; and

''(v) has not received any thing of value in return for the contribution; and

''(4) shall be acknowledged by a receipt that is sent to the contributor with a copy kept by the candidate for the Commission and a copy kept by the candidate for the election authorities in the State with respect to which the candidate is seeking election.

''(d) DEPOSIT OF QUALIFYING CONTRIBUTIONS.—

''(1) IN GENERAL.—Not later than 21 days after obtaining a qualifying contribution, a candidate shall—

''(A) deposit such contribution into the Senate Fair Elections Fund, and

''(B) remit to the Commission a copy of the receipt for such contribution.

''(2) DEPOSIT OF CONTRIBUTIONS AFTER CERTIFICATION.—Notwithstanding paragraph (1), all qualifying contributions obtained by a candidate shall be deposited into the Senate Fair Elections Fund and all copies of receipts for such contributions shall be remitted to the Commission not later than—

''(A) in the case of a candidate who is denied certification under section 508, 3 days after receiving a notice of denial of certification under section 508(a)(2); and

''(B) in any other case, not later than the last day of the fair elections qualifying period.

''(e) VERIFICATION OF QUALIFYING CONTRIBUTIONS.—The Commission shall establish procedures for the auditing and verification of qualifying contributions to ensure that such contributions meet the requirements of this section. Such procedures may provide for verification through the means of a postcard or other method, as determined by the Commission.

''SEC. 506. CONTRIBUTION AND EXPENDITURE REQUIREMENTS.

''(a) GENERAL RULE.—A candidate for Senator meets the requirements of this section if, during the election cycle of the candidate, the candidate—

''(1) except as provided in subsection (b), accepts no contributions other than—

''(A) seed money contributions;

''(B) qualifying contributions made payable to the Senate Fair Elections Fund;

''(C) allocations from the Senate Fair Elections Fund under sections 510 and 511; and

''(D) vouchers provided to the candidate under section 315A of the Communications Act of 1934;

''(2) makes no expenditures from any amounts other than from—

''(A) amounts received from seed money contributions;

''(B) amounts received from the Senate Fair Elections Fund; and

''(C) vouchers provided to the candidate under section 315A of the Communications Act of 1934; and

''(3) makes no expenditures from personal funds or the funds of any immediate family member (other than funds received through seed money contributions).

For purposes of this subsection, a payment made by a political party in coordination with a participating candidate shall not be treated as a contribution to or as an expenditure made by the participating candidate.

''(b) CONTRIBUTIONS FOR LEADERSHIP PACS, ETC.—A political committee of a participating candidate which is not an authorized committee of such candidate may accept contributions other than contributions described in subsection (a)(1) from any person if—

''(1) the aggregate contributions from such person for any for a calendar year do not exceed $100; and

''(2) no portion of such contributions is disbursed in connection with the campaign of the participating candidate.

''(c) EXCEPTION.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a candidate shall not be treated as having failed to meet the requirements of this section if any contributions accepted before the date the candidate files a statement of intent under section 503(a)(1) are not expended and are—

''(A) returned to the contributor; or

''(B) submitted to the Federal Election Commission for deposit in the Senate Fair Elections Fund.

''(2) SPECIAL RULE FOR SEED MONEY CONTRIBUTIONS AND CONTRIBUTIONS FOR LEADERSHIP PACS.—For purposes of paragraph (1), a candidate shall not be required to return, donate, or submit any portion of the aggregate amount of contributions from any person which is $100 or less to the extent that such contribution—

''(A) otherwise qualifies as a seed money contribution; or

''(B) otherwise meets the requirements of subsection (b).

''(3) SPECIAL RULE FOR CONTRIBUTIONS BEFORE THE DATE OF ENACTMENT OF THIS TITLE.—Notwithstanding subsection (a), a candidate shall not be treated as having failed to meet the requirements of this section if any contributions accepted before the date of the enactment of this title are not expended and are—

''(A) returned to the contributor;

''(B) donated to an organization described in section 170(c) of the Internal Revenue Code of 1986;

''(C) donated to a political party;

''(D) used to retire campaign debt; or

''(E) submitted to the Federal Election Commission for deposit in the Senate Fair Elections Fund.

''SEC. 507. DEBATE REQUIREMENT.

''A candidate for Senator meets the requirements of this section if the candidate participates in at least—

''(1) 1 public debate before the primary election with other participating candidates and other willing candidates from the same party and seeking the same nomination as such candidate; and

''(2) 2 public debates before the general election with other participating candidates and other willing candidates seeking the same office as such candidate.

''SEC. 508. CERTIFICATION BY COMMISSION.

''(a) IN GENERAL.—Not later than 5 days after a candidate for Senator files an affidavit under section 503(a)(4), the Commission shall—

''(1) certify whether or not the candidate is a participating candidate; and

''(2) notify the candidate of the Commission's determination.

''(b) REVOCATION OF CERTIFICATION.—

''(1) IN GENERAL.—The Commission may revoke a certification under subsection (a) if—

''(A) a candidate fails to qualify to appear on the ballot at any time after the date of certification; or

''(B) a candidate otherwise fails to comply with the requirements of this title.

''(2) REPAYMENT OF BENEFITS.—If certification is revoked under paragraph (1), the candidate shall repay—

''(A) to the Senate Fair Elections Fund an amount equal to the value of benefits received under this title plus interest (at a rate determined by the Commission) on any such amount received; and

''(B) to Federal Communications Commission an amount equal to the amount of the dollar value of vouchers which were received from the Federal Communications Commission under section 315A of the Communications Act of 1934 and used by the candidate.

''SEC. 509. BENEFITS FOR PARTICIPATING CANDIDATES.

''(a) IN GENERAL.—A participating candidate shall be entitled to—

''(1) for each election with respect to which a candidate is certified as a participating candidate—

''(A) an allocation from the Fund to make or obligate to make expenditures with respect to such election, as provided in section 510;

''(B) fair fight funds, as provided in section 511; and

''(2) for the general election, vouchers for broadcasts of political advertisements, as provided in section 315A of the Communications Act of 1934 (47 U.S.C. 315A).

''(b) RESTRICTION ON USES OF ALLOCATIONS FROM THE FUND.—Allocations from the Fund received by a participating candidate under sections 510 and 511 may only be used for campaign-related costs.

''(c) REMITTING ALLOCATIONS FROM THE FUND.—Not later than the date that is 45 days after the date of the election, a participating candidate shall remit to the Commission for deposit in the Senate Fair Elections Fund any unspent amounts paid to such candidate under this title for such election.

''SEC. 510. ALLOCATIONS FROM THE FUND.

''(a) IN GENERAL.—The Commission shall make allocations from the Fund under section 509(a)(1)(A) to a participating candidate—

''(1) in the case of amounts provided under subsection (c)(1), not later than 48 hours after the date on which such candidate is certified as a participating candidate under section 508;

''(2) in the case of a general election, not later than 48 hours after—

''(A) the date the certification of the results of the primary election or the primary runoff election; or

''(B) in any case in which there is no primary election, the date the candidate qualifies to be placed on the ballot; and

''(3) in the case of a primary runoff election or a general runoff election, not later than 48 hours after the certification of the results of the primary election or the general election, as the case may be.

''(b) METHOD OF PAYMENT.—The Commission shall distribute funds available to participating candidates under this section through the use of an electronic funds exchange or a debit card.

''(c) AMOUNTS.—

''(1) PRIMARY ELECTION ALLOCATION; INITIAL ALLOCATION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B), the Commission shall make an allocation from the Fund for a primary election to a participating candidate in an amount equal to 67 percent of the base amount with respect to such participating candidate.

''(B) INDEPENDENT CANDIDATES.—In the case of a participating candidate who is an independent candidate, the Commission shall make an initial allocation from the Fund in an amount equal to 25 percent of the base amount with respect to such candidate.

''(C) REDUCTION FOR EXCESS SEED MONEY.—An allocation from the Fund for any candidate under this paragraph shall be reduced by an amount equal to the aggregate amount of seed money contributions received by the candidate in excess of the sum of—

''(i) $75,000; plus

''(ii) $7,500 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

''(2) PRIMARY RUNOFF ELECTION ALLOCATION.—The Commission shall make an allocation from the Fund for a primary runoff election to a participating candidate in an amount equal to 25 percent of the amount the participating candidate was eligible to receive under this section for the primary election.

''(3) GENERAL ELECTION ALLOCATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall make an allocation from the Fund for a general election to a participating candidate in an amount equal to the base amount with respect to such candidate.

''(B) UNCONTESTED ELECTIONS.—

''(i) IN GENERAL.—The Commission shall make an allocation from the Fund to a participating candidate for a general election that is uncontested in an amount equal to 25 percent of the base amount with respect to such candidate.

''(ii) UNCONTESTED ELECTIONS.—For purposes of this subparagraph, an election is uncontested if not more than 1 candidate has received contributions (including payments from the Senate Fair Elections Fund) in an amount equal to or greater than the lesser of—

''(I) the amount in effect for a candidate in such election under paragraph (1)(C), or

''(II) an amount equal to 50 percent of the base amount with respect to such candidate.

''(C) REDUCTION FOR EXCESS SEED MONEY.—The allocation from the Fund for the general election for any participating candidate in a State that does not hold a primary election shall be reduced by an amount equal to the aggregate amount of seed money contributions received by the candidate in excess of the sum of—

''(i) $75,000; plus

''(ii) $7,500 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

''(4) GENERAL RUNOFF ELECTION ALLOCATION.—The Commission shall make an allocation from the Fund for a general runoff election to a participating candidate in an amount equal to 25 percent of the base amount with respect to such candidate.

''(d) BASE AMOUNT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the base amount for any candidate is an amount equal to the sum of—

''(A) $750,000; plus

''(B) $150,000 for each congressional district in excess of 1 in the State with respect to which the candidate is seeking election.

''(2) MINOR PARTY AND INDEPENDENT CANDIDATES.—

''(A) REDUCED AMOUNT FOR CERTAIN CANDIDATES.—

''(i) IN GENERAL.—In the case of a minor party candidate or independent candidate described clause (ii), the base amount is an amount equal to the product of—

''(I) a fraction the numerator of which is the highest percentage of the vote received by the candidate or a candidate of the same political party as such candidate in the election described in clause (ii) and the denominator of which is 25 percent; and

''(II) the amount that would (but for this paragraph) be the base amount for the candidate under paragraph (1).

''(ii) CANDIDATE DESCRIBED.—A candidate is described in this clause if, in the most recent general election involving the office of Senator, President, or Governor in the State in which the candidate is seeking office—

''(I) such candidate, or any candidate of the same political party as such candidate, received 5 percent or more of the total number of votes cast for any such office; and

''(II) such candidate and all candidates of the same political party as such candidate received less than 25 percent of the total number of votes cast for each such office.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any candidate if such candidate receives a number of qualifying contributions which is greater than 150 percent of the number of qualifying contributions such candidate is required to receive in order to meet the requirements of section 505(a).

''(3) INDEXING.—In each odd-numbered year after 2010—

''(A) each dollar amount under paragraph (1) shall be increased by the percent difference between the price index (as defined in section 315(c)(2)(A)) for the 12 months preceding the beginning of such calendar year and the price index for calendar year 2008;

''(B) each dollar amount so increased shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election; and

''(C) if any amount after adjustment under subparagraph (A) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

''(4) ADJUSTMENT BY MEDIA MARKET.—

''(A) IN GENERAL.—The Commission, in consultation with the Federal Communications Commission, shall establish an index reflecting the costs of the media markets in each State.

''(B) ADJUSTMENT.—At the beginning of each year, the Commission shall increase the amount under paragraph (1) (after application of paragraph (3)) based on the index established under subparagraph (A).

''SEC. 511. PAYMENT OF FAIR FIGHT FUNDS.

''(a) DETERMINATION OF RIGHT TO PAYMENT.—

''(1) IN GENERAL.—The Commission shall, on a regular basis, make a determination on—

''(A) the amount of opposing funds with respect to each participating candidate, and

''(B) the applicable amount with respect to each participating candidate.

''(2) BASIS OF DETERMINATIONS.—The Commission shall make determinations under paragraph (1) based on—

''(A) reports filed by the relevant opposing candidate under section 304(a) with respect to amounts described in subsection (c)(1)(A)(i)(I); and

''(B) reports filed by political committees under section 304(a) and by other persons under section 304(c) with respect to—

''(i) opposing funds described in clauses (ii)(I) and (iii)(I) of subsection (c)(1)(A); and

''(ii) applicable amounts described in subparagraphs (B)(i) and (C)(i) of subsection (b)(2).

''(3) REQUESTS FOR DETERMINATION RELATING TO CERTAIN ELECTIONEERING COMMUNICATIONS.—

''(A) IN GENERAL.—A participating candidate may request to the Commission to make a determination under paragraph (1) with respect to any relevant opposing candidate with respect to—

''(i) opposing funds described in clauses (ii)(II) and (iii)(II) of subsection (c)(1)(A); and

''(ii) applicable amounts described in subparagraphs (B)(ii) and (C)(ii) of subsection (b)(2).

''(B) TIME FOR MAKING DETERMINATION.—In the case of any such request, the Commission shall make such determination and notify the participating candidate of such determination not later than—

''(i) 24 hours after receiving such request during the 3-week period ending on the date of the election, and

''(ii) 48 hours after receiving such request at any other time.

''(b) PAYMENTS.—

''(1) IN GENERAL.—The Commission shall make available to the participating candidate fair fight funds in an amount equal to the amount of opposing funds that is in excess of the applicable amount—

''(A) immediately after making any determination under subsection (a) with respect to any participating candidate during the 3-week period ending on the date of the election, and

''(B) not later than 24 hours after making such determination at any other time.

''(2) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount is an amount equal to the sum of—

''(A) the sum of—

''(i) the amount of seed money contribution received by the participating candidate;

''(ii) in the case of a general election, the value of any vouchers received by the candidate under section 315A of the Communications Act of 1934; plus

''(iii)(I) in the case of a participating candidate who is a minor party candidate running in a general election or an independent candidate, the allocation from the Fund which would have been provided to such candidate for such election if such candidate were a major party candidate; or

''(II) in the case of any other participating candidate, an amount equal to the allocation from the Fund to such candidate for such election under section 510(c);

''(B) the sum of—

''(i) the amount of independent expenditures made advocating the election of the participating candidate; plus

''(ii) the amount of disbursements for electioneering communications which promote or support such participating candidate;

''(C) the sum of—

''(i) the amount of independent expenditures made advocating the defeat of the relevant opposing candidate; plus

''(ii) the amount of disbursements for electioneering communications which attack or oppose the relevant opposing candidate; plus

''(D) the amount of fair fight funds previously provided to the participating candidate under this subsection for the election.

''(3) LIMITS ON AMOUNT OF PAYMENT.—The aggregate of fair fight funds that a participating candidate receives under this subsection for any election shall not exceed 200 percent of the allocation from the Fund that the participating candidate receives for such election under section 510(c).

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

''(1) OPPOSING FUNDS.—

''(A) IN GENERAL.—The term 'opposing funds' means, with respect to any participating candidate for any election, the sum of—

''(i)(I) the greater of the total contributions received by the relevant opposing candidate or the total expenditures made by such relevant opposing candidate; or

''(II) in the case of a relevant opposing candidate who is a participating candidate, an amount equal to the sum of the amount of seed money contributions received by the relevant opposing candidate, the value of any vouchers received by the relevant opposing candidate for the general election under section 315A of the Communications Act of 1934, and the allocation from the Fund under section 510(c) for the relevant opposing candidate for such election;

''(ii) the sum of—

''(I) the amount of independent expenditures made advocating the election of such relevant opposing candidate; plus

''(II) the amount of disbursements for electioneering communications which promote or support such relevant opposing candidate; plus

''(iii) the sum of—

''(I) the amount of independent expenditures made advocating the defeat of such participating candidate; plus

''(II) the amount of disbursements for electioneering communications which attack or oppose such participating candidate.

''(2) RELEVANT OPPOSING CANDIDATE.—The term 'relevant opposing candidate' means, with respect to any participating candidate, the opposing candidate of such participating candidate with respect to whom the amount under paragraph (1) is the greatest.

''(3) ELECTIONEERING COMMUNICATION.—The term 'electioneering communication' has the meaning given such term under section 304(f)(3), except that subparagraph (A)(i)(II)(aa) thereof shall be applied by substituting '30' for '60'.

''SEC. 512. ADMINISTRATION OF THE SENATE FAIR ELECTIONS SYSTEM.

''(a) REGULATIONS.—The Commission shall prescribe regulations to carry out the purposes of this title, including regulations—

''(1) to establish procedures for—

''(A) verifying the amount of valid qualifying contributions with respect to a candidate;

''(B) effectively and efficiently monitoring and enforcing the limits on the use of personal funds by participating candidates;

''(C) the expedited payment of fair fight funds during the 3-week period ending on the date of the election;

''(D) monitoring the use of allocations from the Fund under this title through audits or other mechanisms; and

''(E) returning unspent disbursements and disposing of assets purchased with allocations from the Fund;

''(2) providing for the administration of the provisions of this title with respect to special elections;

''(3) pertaining to the replacement of candidates;

''(4) regarding the conduct of debates in a manner consistent with the best practices of States that provide public financing for elections; and

''(5) for attributing expenditures to specific elections for the purposes of calculating opposing funds.

''(b) OPERATION OF COMMISSION.—The Commission shall maintain normal business hours during the weekend immediately before any general election for the purposes of administering the provisions of this title, including the distribution of fair fight funds under section 511.

''(c) REPORTS.—Not later than April 1, 2009, and every 2 years thereafter, the Commission shall submit to the Senate Committee on

Rules and Administration a report documenting, evaluating, and making recommendations relating to the administrative implementation and enforcement of the provisions of this title.

"SEC. 513. VIOLATIONS AND PENALTIES.

''(a) CIVIL PENALTY FOR VIOLATION OF CONTRIBUTION AND EXPENDITURE REQUIREMENTS.—If a candidate who has been certified as a participating candidate under section 508(a) accepts a contribution or makes an expenditure that is prohibited under section 506, the Commission shall assess a civil penalty against the candidate in an amount that is not more than 3 times the amount of the contribution or expenditure. Any amounts collected under this subsection shall be deposited into the Senate Fair Elections Fund.

''(b) REPAYMENT FOR IMPROPER USE OF FAIR ELECTIONS FUND.—

''(1) IN GENERAL.—If the Commission determines that any benefit made available to a participating candidate under this title was not used as provided for in this title or that a participating candidate has violated any of the dates for remission of funds contained in this title, the Commission shall so notify the candidate and the candidate shall pay to the Senate Fair Elections Fund an amount equal to—

''(A) the amount of benefits so used or not remitted, as appropriate, and

''(B) interest on any such amounts (at a rate determined by the Commission).

''(2) OTHER ACTION NOT PRECLUDED.—Any action by the Commission in accordance with this subsection shall not preclude enforcement proceedings by the Commission in accordance with section 309(a), including a referral by the Commission to the Attorney General in the case of an apparent knowing and willful violation of this title.''.

SEC. 103. REPORTING REQUIREMENTS FOR NONPARTICIPATING CANDIDATES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

''(i) NONPARTICIPATING CANDIDATES.—

''(1) INITIAL REPORT.—

''(A) IN GENERAL.—Each nonparticipating candidate who is opposed to a participating candidate and who receives contributions or makes expenditures aggregating more than the threshold amount shall, within 48 hours of the date such aggregate contributions or expenditures exceed the threshold amount, file with the Commission a report stating the total amount of contributions received and expenditures made or obligated by such candidate.

''(B) THRESHOLD AMOUNT.—For purposes of this paragraph, the term 'threshold amount' means 75 percent of the allocation from the Fund that a participating candidate would be entitled to receive in such election under section 510 if the participating candidate were a major party candidate.

''(2) PERIODIC REPORTS.—

''(A) IN GENERAL.—In addition to any reports required under subsection (a), each nonparticipating candidate who is required to make a report under paragraph (1) shall make the following reports:

''(i) A report which shall be filed not later than 5 P.M. on the forty-second day before the date on which the election involving such candidate is held and which shall be complete through the forty-fourth day before such date.

''(ii) A report which shall be filed not later than 5 P.M. on the twenty-first day before the date on which the election involving such candidate is held and which shall be complete through the twenty-third day before such date.

''(iii) A report which shall be filed not later than 5 P.M. on the twelfth day before the date on which the election involving such candidate is held and which shall be complete through the fourteenth day before such date.

''(B) ADDITIONAL REPORTING WITHIN 2 WEEKS OF ELECTION.—Each nonparticipating candidate who is required to make a report under paragraph (1) and who receives contributions or makes expenditures aggregating more than $1,000 at any time after the fourteenth day before the date of the election involving such candidate shall make a report to the Commission not later than 24 hours after such contributions are received or such expenditures are made.

''(C) CONTENTS OF REPORT.—Each report required under this paragraph shall state the total amount of contributions received and expenditures made or obligated to be made during the period covered by the report.

''(3) DEFINITIONS.—For purposes of this subsection and section 309(a)(13), the terms 'nonparticipating candidate', 'participating candidate', and 'allocation from the Fund' have the respective meanings given to such terms under section 501.''.

(b) INCREASED PENALTY FOR FAILURE TO FILE.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437(g)) is amended by adding at the end the following new paragraph:

''(13) INCREASED CIVIL PENALTIES WITH RESPECT TO REPORTING BY NONPARTICIPATING CANDIDATES.—For purposes of paragraphs (5) and (6), any civil penalty with respect to a violation of section 304(i) shall not exceed the greater of—

''(A) the amount otherwise applicable without regard to this paragraph; or

''(B) for each day of the violation, 3 times the amount of the fair fight funds under section 511 that otherwise would have been allocated to the participating candidate but for such violation.''.

SEC. 104. MODIFICATION OF ELECTIONEERING COMMUNICATION REPORTING REQUIREMENTS.

Paragraph (2) of section 304(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(f)(2)) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

''(E) in the case of a communication referring to any candidate in an election involving a participating candidate (as defined under section 501(9)), a transcript of the electioneering communication.''.

SEC. 105. LIMITATION ON COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES WITH PARTICIPATING CANDIDATES.

(a) IN GENERAL.—Section 315(d)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

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

(2) by inserting before subparagraph (B), as redesignated by paragraph (1), the following new subparagraph:

''(A) in the case of a candidate for election to the office of Senator who is a participating candidate (as defined in section 501), the lesser of—

''(i) 10 percent of the allocation from the Senate Elections Fund that the participating candidate is eligible to receive for the general election under section 510(c)(3); or

''(ii) the amount which would (but for this subparagraph) apply with respect to such candidate under subparagraph (B);''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 315(d)(3) of such Act, as redesignated by subsection (a), is amended by inserting ''who is not a participating candidate (as so defined)'' after ''office of Senator''.

SEC. 106. AUDITS.

Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended—

(1) by inserting ''(1)'' before ''The Commission''; and

(2) by adding at the end the following:

''(2) AUDITS OF PARTICIPATING CANDIDATES.—

''(A) IN GENERAL.—Notwithstanding paragraph (1), after every primary, general, and runoff election, the Commission shall conduct random audits and investigations of not less than 30 percent of the authorized committees of candidates who are participating candidates (as defined in section 501).

''(B) SELECTION OF SUBJECTS.—The subjects of audits and investigations under this paragraph shall be selected on the basis of impartial criteria established by a vote of at least 4 members of the Commission.''.

Subtitle B—Senate Fair Elections Fund Revenues

SEC. 111. DEPOSIT OF PROCEEDS FROM RECOVERED SPECTRUM AUCTIONS.

Section 309(j)(8)(E)(ii) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)(ii)) is amended—

(1) by striking ''deposited in'' and inserting the following: ''deposited as follows:

''(I) 90 percent of such proceeds deposited in''; and

(2) by adding at the end the following:

''(II) 10 percent of such proceeds deposited in the Senate Fair Elections Fund established under section 502 of the Federal Election Campaign Act of 1972.''.

SEC. 112. TAX CREDIT FOR VOLUNTARY DONATIONS TO SENATE FAIR ELECTIONS FUND.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 30D. CREDIT FOR CONTRIBUTIONS TO SENATE FAIR ELECTIONS FUND.

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

''(1) the amount contributed to the Senate Fair Elections Fund by the taxpayer during such taxable year, or

''(2) $500.

''(b) LIMITATIONS.—

''(1) NO CREDIT FOR QUALIFYING CONTRIBUTIONS.—No credit shall be allowed under subsection (a) for any contribution which is a qualifying contribution (as defined under section 501(11) of the Federal Election Campaign Act of 1971).

''(2) NO CREDIT FOR DESIGNATIONS UNDER SECTION 6097.—No credit shall be allowed with respect to any amount designated under section 6097.

''(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C, over

''(B) the tentative minimum tax for the taxable year.

''(c) SENATE FAIR ELECTIONS FUND.—For purposes of this section, the term 'Senate Fair Elections Fund' means the fund established under section 502 of the Federal Election Campaign Act of 1971.

''(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount for which a credit is allowed under subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of section for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 30C the following new item:

''Sec. 30D. Credit for contributions to Senate Fair Elections Fund.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Subtitle C—Fair Elections Review Commission

SEC. 121. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Fair Elections Review Commission'' (hereafter in this subtitle referred to as the ''Commission'').

(b) DUTIES.—

(1) REVIEW OF FAIR ELECTIONS FINANCING.—

(A) IN GENERAL.—After each general election for Federal office, the Commission shall conduct a comprehensive review of the Senate fair elections financing program under title V of the Federal Election Campaign Act of 1974, including—

(i) the number and value of qualifying contributions a candidate is required to obtain under section 505 of such Act to qualify for allocations from the Fund;

(ii) the amount of allocations from the Senate Fair Elections Fund that candidates may receive under sections 510 and 511 of such Act;

(iii) the overall satisfaction of participating candidates with the program; and

(iv) such other matters relating to financing of Senate campaigns as the Commission determines are appropriate.

(B) CRITERIA FOR REVIEW.—In conducting the review under subparagraph (A), the Commission shall consider the following:

(i) REVIEW OF QUALIFYING CONTRIBUTION REQUIREMENTS.—The Commission shall consider whether the number and value of qualifying contributions required strikes a balance between the importance of voter choice and fiscal responsibility, taking into consideration the number of primary and general election participating candidates, the electoral performance of those candidates, program cost, and any other information the Commission determines is appropriate.

(ii) REVIEW OF PROGRAM ALLOCATIONS.—The Commission shall consider whether allocations from the Senate Elections Fund under sections 510 ad 511 of the Federal Election Campaign Act of 1974 are sufficient for voters in each State to learn about the candidates to cast an informed vote, taking into account the historic amount of spending by winning candidates, media costs, primary election dates, and any other information the Commission determines is appropriate.

(2) REPORT, RECOMMENDATIONS, AND PROPOSED LEGISLATIVE LANGUAGE.—

(A) REPORT.—Not later than March 30 following any general election for Federal office, the Commission shall submit a report to Congress on the review conducted under paragraph (1). Such report shall contain a detailed statement of the findings, conclusions, and recommendations of the Commission based on such review, and shall contain any proposed legislative language (as required under subparagraph (C)) of the Commission.

(B) FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS.—A finding, conclusion, or recommendation of the Commission shall be included in the report under subparagraph (A) only if not less than 3 members of the Commission voted for such finding, conclusion, or recommendation.

(C) LEGISLATIVE LANGUAGE.—

(i) IN GENERAL.—The report under subparagraph (A) shall include legislative language with respect to any recommendation involving—

(I) an increase in the number or value of qualifying contributions; or

(II) an increase in the amount of allocations from the Senate Elections Fund.

(ii) FORM.—The legislative language shall be in the form of a proposed bill for introduction in Congress and shall not include any recommendation not related to matter described subclause (I) or (II) of clause (i)

SEC. 122. STRUCTURE AND MEMBERSHIP OF THE COMMISSION.

(a) APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 5 members, of whom—

(A) 1 shall be appointed by the President pro tempore of the Senate;

(B) 1 shall be appointed by the Minority Leader of the Senate; and

(C) 3 shall be appointed jointly by the members appointed under subparagraphs (A) and (B).

(2) QUALIFICATIONS.—

(A) IN GENERAL.—The members shall be individuals who are nonpartisan and, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Commission.

(B) PROHIBITION.—No member of the Commission may be—

(i) a member of Congress;

(ii) an employee of the Federal government;

(iii) a registered lobbyist; or

(iv) an officer or employee of a political party or political campaign.

(3) DATE.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this Act.

(4) TERMS.—A member of the Commission shall be appointed for a term of 5 years.

(b) VACANCIES.—A vacancy on the Commission shall be filled not later than 30 calendar days after the date on which the Commission is given notice of the vacancy, in the same manner as the original appointment. The individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(c) CHAIRPERSON.—The Commission shall designate a Chairperson from among the members of the Commission.

SEC. 123. POWERS OF THE COMMISSION.

(a) MEETINGS AND HEARINGS.—

(1) MEETINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(2) QUORUM.—Four members of the Commission shall constitute a quorum for purposes of voting, but a quorum is not required for members to meet and hold hearings.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

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

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 124. ADMINISTRATION.

(a) COMPENSATION OF MEMBERS.—

(1) IN GENERAL.—

(A) IN GENERAL.—Each member, other than the Chairperson, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(B) CHAIRPERSON.—The Chairperson shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(2) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code, while away from their homes or regular places of business in performance of services for the Commission.

(b) PERSONNEL.—

(1) DIRECTOR.—The Commission shall have a staff headed by an Executive Director. The Executive Director shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) STAFF APPOINTMENT.—With the approval of the Chairperson, the Executive Director may appoint such personnel as the Executive Director and the Commission determines to be appropriate.

(3) ACTUARIAL EXPERTS AND CONSULTANTS.—With the approval of the Chairperson, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Upon the request of the Chairperson, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, statistical data, and other information from the Library of Congress and other agencies and elected representatives of the executive and legislative branches of the Federal Government. The Chairperson of the Commission shall make requests for such access in writing when necessary.

SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this subtitle.

SEC. 126. EXPEDITED CONSIDERATION OF COMMISSION RECOMMENDATIONS.

(a) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(1) INTRODUCTION.—Not later than 60 days after the Commission files a report under section 121(b), the Majority Leader of the Senate, or the Majority Leader's designee, shall introduce any proposed legislative language submitted by the Commission under section 121(b)(2)(C) in the Senate (hereafter in this section referred to as a ''Commission bill'').

(2) COMMITTEE CONSIDERATION.—

(A) REFERRAL.—A Commission bill introduced in the Senate shall be referred to the Committee on Rules and Administration of the Senate.

(B) REPORTING.—Not later than 60 calendar days after the introduction of the Commission bill, the Committee on Rules and Administration shall hold a hearing on the bill and report the bill to the Senate. No amendment shall be in order to the bill in the Committee.

(C) DISCHARGE OF COMMITTEE.—If the Committee on Rules and Administration has not

reported a Commission bill at the end of 60 calendar days after its introduction, such committee shall be automatically discharged from further consideration of the Commission bill and it shall be placed on the appropriate calendar.

(b) EXPEDITED PROCEDURE.—

(1) FLOOR CONSIDERATION IN THE SENATE.—

(A) IN GENERAL.—Not later than 60 calendar days after the date on which a committee has reported or has been discharged from consideration of a Commission bill, the Majority Leader of the Senate, or the Majority Leader's designee shall move to proceed to the consideration of the Commission bill. It shall also be in order for any member of the Senate to move to proceed to the consideration of the bill at any time after the conclusion of such 60-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission bill is privileged in the Senate. The motion is not debatable and is not subject to a motion to postpone consideration of the Commission bill or to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the Senate shall immediately proceed to consideration of the Commission bill without intervening motion, order, action, or other business, and the Commission bill shall remain the unfinished business of the Senate until disposed of.

(C) AMENDMENTS, MOTIONS, AND APPEALS.—No amendment shall be in order in the Senate, and any debatable motion or appeal is debatable for not to exceed 5 hours to be divided equally between those favoring and those opposing the motion or appeal.

(D) LIMITED DEBATE.—Consideration in the Senate of the Commission bill and on all debatable motions and appeals in connection therewith, shall be limited to not more than 40 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the Senate or their designees. A motion further to limit debate on the Commission bill is in order and is not debatable. All time used for consideration of the Commission bill, including time used for quorum calls (except quorum calls immediately preceding a vote), shall come from the 40 hours of consideration.

(E) VOTE ON PASSAGE.—

(i) IN GENERAL.—The vote on passage in the Senate of the Commission bill shall occur immediately following the conclusion of the 40-hour period for consideration of the Commission bill under subparagraph (D) and a request to establish the presence of a quorum.

(ii) OTHER MOTIONS NOT IN ORDER.—A motion in the Senate to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission bill is not in order. A motion in the Senate to reconsider the vote by which the Commission bill is agreed to or not agreed to is not in order.

(2) FLOOR CONSIDERATION IN THE HOUSE.—

(A) IN GENERAL.—If a Commission bill is agreed to in the Senate, the Majority Leader of the House of Representatives, or the Majority Leader's designee shall move to proceed to the consideration of the Commission bill not later than 30 days after the date the House or Representatives receives notice of such agreement. It shall also be in order for any member of the House of Representatives to move to proceed to the consideration of the bill at any time after the conclusion of such 30-day period.

(B) MOTION TO PROCEED.—A motion to proceed to the consideration of a Commission bill is privileged in the House of Representatives. The motion is not debatable and is not subject to a motion to postpone consideration of the Commission bill or to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives shall immediately proceed to consideration of the Commission bill without intervening motion, order, action, or other business, and the Commission bill shall remain the unfinished business of the House of Representatives until disposed of.

(C) AMENDMENTS, MOTIONS, AND APPEALS.—No amendment shall be in order in the House of Representatives, and any debatable motion or appeal is debatable for not to exceed 5 hours to be divided equally between those favoring and those opposing the motion or appeal.

(D) LIMITED DEBATE.—Consideration in the House of Representatives of the Commission bill and on all debatable motions and appeals in connection therewith, shall be limited to not more than 40 hours, which shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader of the House of Representatives or their designees. A motion further to limit debate on the Commission bill is in order and is not debatable. All time used for consideration of the Commission bill, including time used for quorum calls (except quorum calls immediately preceding a vote), shall come from the 40 hours of consideration.

(E) VOTE ON PASSAGE.—

(i) IN GENERAL.—The vote on passage in the House of Representatives of the Commission bill shall occur immediately following the conclusion of the 40-hour period for consideration of the Commission bill under subparagraph (D) and a request to establish the presence of a quorum.

(ii) OTHER MOTIONS NOT IN ORDER.—A motion in the House of Representatives to postpone consideration of the Commission bill, a motion to proceed to the consideration of other business, or a motion to recommit the Commission bill is not in order. A motion in the House of Representatives to reconsider the vote by which the Commission bill is agreed to or not agreed to is not in order.

(c) RULES OF SENATE AND HOUSE OF REPRESENTATIVES.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a Commission bill, and it supersedes other rules only to the extent that it is inconsistent with such rules, and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE II—VOTER INFORMATION

SEC. 201. BROADCASTS RELATING TO CANDIDATES.

(a) LOWEST UNIT CHARGE; NATIONAL COMMITTEES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking ''to such office'' in paragraph (1) and inserting ''to such office, or by a national committee of a political party on behalf of such candidate in connection with such campaign,''; and

(2) by inserting ''for pre-emptible use thereof'' after ''station'' in subparagraph (A) of paragraph (1).

(b) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)), as amended by subsection (a), is amended—

(1) in paragraph (1)(A), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) PARTICIPATING CANDIDATES.—In the case of a participating candidate (as defined under section 501(10) of the Federal Election Campaign Act of 1971), the charges made for the use any broadcasting station for a television broadcast shall not exceed 80 percent of the lowest charge described in paragraph (1)(A) during—

''(A) the 45 days preceding the date of a primary or primary runoff election in which the candidate is opposed; and

''(B) the 60 days preceding the date of a general or special election in which the candidate is opposed.

''(4) RATE CARDS.—A licensee shall provide to a candidate for Senate a rate card that discloses—

''(A) the rate charged under this subsection; and

''(B) the method that the licensee uses to determine the rate charged under this subsection.''.

(c) PREEMPTION; AUDITS.—Section 315 of such Act (47 U.S.C. 315) is amended—

(1) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively and moving them to follow the existing subsection (e);

(2) by redesignating the existing subsection (e) as subsection (c); and

(3) by inserting after subsection (c) (as redesignated by paragraph (2)) the following:

''(d) PREEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding the requirements of subsection (b)(1)(A), a licensee shall not preempt the use of a broadcasting station by a legally qualified candidate for Senate who has purchased and paid for such use.

''(2) CIRCUMSTANCES BEYOND CONTROL OF LICENSEE.—If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the station, any candidate or party advertising spot scheduled to be broadcast during that program shall be treated in the same fashion as a comparable commercial advertising spot.

''(e) AUDITS.—During the 45-day period preceding a primary election and the 60-day period preceding a general election, the Commission shall conduct such audits as it deems necessary to ensure that each broadcaster to which this section applies is allocating television broadcast advertising time in accordance with this section and section 312.''.

(d) REVOCATION OF LICENSE FOR FAILURE TO PERMIT ACCESS.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended—

(1) by striking ''or repeated'';

(2) by inserting ''or cable system'' after ''broadcasting station''; and

(3) by striking ''his candidacy'' and inserting ''the candidacy of the candidate, under the same terms, conditions, and business practices as apply to the most favored advertiser of the licensee''.

(e) STYLISTIC AMENDMENTS.—Section 315 of such Act (47 U.S.C. 315) is amended—

(1) by striking ''the'' in subsection (f)(1), as redesignated by subsection (b)(1), and inserting ''BROADCASTING STATION.—'';

(2) by striking ''the'' in subsection (f)(2), as redesignated by subsection (b)(1), and inserting ''LICENSEE; STATION LICENSEE.—''; and

(3) by inserting ''REGULATIONS.—'' in subsection (g), as redesignated by subsection (b)(1), before ''The Commission''.

SEC. 202. POLITICAL ADVERTISEMENT VOUCHERS FOR PARTICIPATING CANDIDATES.

(a) IN GENERAL.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following:

''SEC. 315A. POLITICAL ADVERTISEMENT VOUCHER PROGRAM.

''(a) IN GENERAL.—The Commission shall establish and administer a voucher program for the purchase of airtime on broadcasting stations for political advertisements in accordance with the provisions of this section.

''(b) CANDIDATES.—The Commission shall only disburse vouchers under the program established under subsection (a) to individuals who meet the following requirements:

''(1) QUALIFICATION.—The individual is certified by the Federal Election Commission as a participating candidate (as defined under section 501(10) of the Federal Election Campaign Act of 1971) with respect to a general election for Federal office under section 508 of the Federal Election Campaign Act of 1971.

''(2) AGREEMENT.—The individual has agreed in writing—

''(A) to keep and furnish to the Federal Election Commission such records, books, and other information as it may require; and

''(B) to repay to the Federal Communications Commission, if the Federal Election Commission revokes the certification of the individual as a participating candidate (as so defined), an amount equal to the dollar value of vouchers which were received from the Commission and used by the candidate.

''(c) AMOUNTS.—The Commission shall disburse vouchers to each candidate certified under subsection (b) in an aggregate amount equal to $100,000 multiplied by the number of congressional districts in the State with respect to which such candidate is running for office.

''(d) USE.—

''(1) EXCLUSIVE USE.—Vouchers disbursed by the Commission under this section may be used only for the purchase of broadcast airtime for political advertisements relating to a general election for the office of Senate by the participating candidate to which the vouchers were disbursed, except that—

''(A) a candidate may exchange vouchers with a political party under paragraph (2); and

''(B) a political party may use vouchers only to purchase broadcast airtime for political advertisements for generic party advertising, to support candidates for State or local office in a general election, or to support participating candidates of the party in a general election for Federal office, but only if it discloses the value of the voucher used as an expenditure under section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(d)).

''(2) EXCHANGE WITH POLITICAL PARTY COMMITTEE.—

''(A) IN GENERAL.—An individual who receives a voucher under this section may transfer the right to use all or a portion of the value of the voucher to a committee of the political party of which the individual is a candidate in exchange for money in an amount equal to the cash value of the voucher or portion exchanged.

''(B) CONTINUATION OF CANDIDATE OBLIGATIONS.—The transfer of a voucher, in whole or in part, to a political party committee under this paragraph does not release the candidate from any obligation under the agreement made under subsection (b)(2) or otherwise modify that agreement or its application to that candidate.

''(C) PARTY COMMITTEE OBLIGATIONS.—Any political party committee to which a voucher or portion thereof is transferred under subparagraph (A)—

''(i) shall account fully, in accordance with such requirements as the Commission may establish, for the receipt of the voucher; and

''(ii) may not use the transferred voucher or portion thereof for any purpose other than a purpose described in paragraph (1)(B).

''(D) VOUCHER AS A CONTRIBUTION UNDER FECA.—If a candidate transfers a voucher or any portion thereof to a political party committee under subparagraph (A)—

''(i) the value of the voucher or portion thereof transferred shall be treated as a contribution from the candidate to the committee, and from the committee to the candidate, for purposes of sections 302 and 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432 and 434);

''(ii) the committee may, in exchange, provide to the candidate only funds subject to the prohibitions, limitations, and reporting requirements of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.); and

''(iii) the amount, if identified as a 'voucher exchange' shall not be considered a contribution for the purposes of sections 315 or 506 of that Act.

''(e) VALUE; ACCEPTANCE; REDEMPTION.—

''(1) VOUCHER.—Each voucher disbursed by the Commission under this section shall have a value in dollars, redeemable upon presentation to the Commission, together with such documentation and other information as the Commission may require, for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(2) ACCEPTANCE.—A broadcasting station shall accept vouchers in payment for the purchase of broadcast airtime for political advertisements in accordance with this section.

''(3) REDEMPTION.—The Commission shall redeem vouchers accepted by broadcasting stations under paragraph (2) upon presentation, subject to such documentation, verification, accounting, and application requirements as the Commission may impose to ensure the accuracy and integrity of the voucher redemption system. The Commission shall use amounts in the Political Advertising Voucher Account established under subsection (f) to redeem vouchers presented under this subsection.

''(4) EXPIRATION.—

''(A) CANDIDATES.—A voucher may only be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on the day before the date of the Federal election in connection with which it was issued and shall be null and void for any other use or purpose.

''(B) EXCEPTION FOR POLITICAL PARTY COMMITTEES.—A voucher held by a political party committee may be used to pay for broadcast airtime for political advertisements to be broadcast before midnight on December 31st of the odd-numbered year following the year in which the voucher was issued by the Commission.

''(5) VOUCHER AS EXPENDITURE UNDER FECA.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), the use of a voucher to purchase broadcast airtime constitutes an expenditure as defined in section 301(9)(A) of that Act (2 U.S.C. 431(9)(A)).

''(B) PARTICIPATING CANDIDATES.—The use of a voucher to purchase broadcast airtime by a participating candidate shall not constitute an expenditure for purposes of section 506 of such Act.

''(f) POLITICAL ADVERTISING VOUCHER ACCOUNT.—

''(1) IN GENERAL.—The Commission shall establish an account to be known as the Political Advertising Voucher Account, which shall be credited with commercial television and radio spectrum use fees assessed under this subsection, together with any amounts repaid or otherwise reimbursed under this section or section 508(b)(2)(B) of the Federal Election Campaign Act of 1971.

''(2) SPECTRUM USE FEE.—

''(A) IN GENERAL.—The Commission shall assess, and collect annually, from each broadcast station, a spectrum use fee in an amount equal to 2 percent of each broadcasting station's gross advertising revenues for such year.

''(B) AVAILABILITY.—

''(i) IN GENERAL.—Any amount assessed and collected under this paragraph shall be used by the Commission as an offsetting collection for the purposes of making disbursements under this section, except that—

''(I) the salaries and expenses account of the Commission shall be credited with such sums as are necessary from those amounts for the costs of developing and implementing the program established by this section; and

''(II) the Commission may reimburse the Federal Election Commission for any expenses incurred by the Commission under this section.

''(ii) DEPOSIT OF EXCESS FEES INTO SENATE FAIR ELECTIONS FUND.—If the amount assessed and collected under this paragraph for years in any election period exceeds the amount necessary for making disbursements under this section for such election period, the Commission shall deposit such excess in the Senate Fair Elections Fund.

''(C) FEE DOES NOT APPLY TO PUBLIC BROADCASTING STATIONS.—Subparagraph (A) does not apply to a public telecommunications entity (as defined in section 397(12) of this Act).

''(3) ADMINISTRATIVE PROVISIONS.—Except as otherwise provided in this subsection, section 9 of this Act applies to the assessment and collection of fees under this subsection to the same extent as if those fees were regulatory fees imposed under section 9.

''(g) DEFINITIONS.—In this section:

''(1) BROADCASTING STATION.—The term 'broadcasting station' has the meaning given that term by section 315(f)(1) of this Act.

''(2) FEDERAL ELECTION.—The term 'Federal election' means any regularly-scheduled, primary, runoff, or special election held to nominate or elect a candidate to Federal office.

''(3) FEDERAL OFFICE.—The term 'Federal office' has the meaning given that term by section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3)).

''(4) POLITICAL PARTY.—The term 'political party' means a major party or a minor party as defined in section 9002(3) or (4) of the Internal Revenue Code of 1986 (26 U.S.C. 9002(3) or (4)).

''(5) OTHER TERMS.—Except as otherwise provided in this section, any term used in this section that is defined in section 301 or 501 of the Federal Election Campaign of 1971 (2 U.S.C. 431) has the meaning given that term by either such section of that Act.

''(h) REGULATIONS.—The Commission shall prescribe such regulations as may be necessary to carry out the provisions of this section. In developing the regulations, the Commission shall consult with the Federal Election Commission.''.

SEC. 203. FCC TO PRESCRIBE STANDARDIZED FORM FOR REPORTING CANDIDATE CAMPAIGN ADS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Communications Commission shall initiate a rulemaking proceeding to establish a standardized form to be used by broadcasting stations, as defined in section 315(f)(1) of the Communications Act of 1934 (47 U.S.C. 315(f)(1)), to record and report the purchase

of advertising time by or on behalf of a candidate for nomination for election, or for election, to Federal elective office.

(b) CONTENTS.—The form prescribed by the Commission under subsection (a) shall require, broadcasting stations to report, at a minimum—

(1) the station call letters and mailing address;

(2) the name and telephone number of the station's sales manager (or individual with responsibility for advertising sales);

(3) the name of the candidate who purchased the advertising time, or on whose behalf the advertising time was purchased, and the Federal elective office for which he or she is a candidate;

(4) the name, mailing address, and telephone number of the person responsible for purchasing broadcast political advertising for the candidate;

(5) notation as to whether the purchase agreement for which the information is being reported is a draft or final version; and

(6) the following information about the advertisement:

(A) The date and time of the broadcast.

(B) The program in which the advertisement was broadcast.

(C) The length of the broadcast airtime.

(c) INTERNET ACCESS.—In its rulemaking under subsection (a), the Commission shall require any broadcasting station required to file a report under this section that maintains an Internet website to make available a link to such reports on that website.

SEC. 204. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

(a) IN GENERAL.—Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A)(i) Except as provided in clause (ii), Member of Congress or a Congressional Committee or Subcommittee of which such Member is Chairman or Ranking Member shall not mail any mass mailing as franked mail during the period which begins 90 days before date of the primary election and ends on the date of the general election with respect to any Federal office which such Member holds, unless the Member has made a public announcement that the Member will not be a candidate for reelection to such office in that year.

''(ii) A Member of Congress or a Congressional Committee or Subcommittee of which such Member is Chairman or Ranking Member may mail a mass mailing as franked mail if—

''(I) the purpose of the mailing is to communicate information about a public meeting; and

''(II) the content of the mailed matter includes only the name of the Member, Committee, or Subcommittee, as appropriate, and the date, time, and place of the public meeting.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (B) and by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively.

(2) Section 3210(a)(6)(E) of title 39, United States Code, as redesignated by paragraph (1), is amended by striking ''subparagraphs (A) and (C)'' and inserting ''subparagraphs (A) and (B)''.

TITLE III—RESPONSIBILITIES OF THE FEDERAL ELECTION COMMISSION

SEC. 301. PETITION FOR CERTIORARI.

Section 307(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by inserting ''(including a proceeding before the Supreme Court on certiorari)'' after ''appeal''.

SEC. 302. FILING BY SENATE CANDIDATES WITH COMMISSION.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended to read as follows:

''(g) FILING WITH THE COMMISSION.—All designations, statements, and reports required to be filed under this Act shall be filed with the Commission.''.

SEC. 303. ELECTRONIC FILING OF FEC REPORTS.

Section 304(a)(11) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)) is amended—

(1) in subparagraph (A), by striking ''under this Act—'' and all that follows and inserting ''under this Act shall be required to maintain and file such designation, statement, or report in electronic form accessible by computers.'';

(2) in subparagraph (B), by striking ''48 hours'' and all that follows through ''filed electronically)'' and inserting ''24 hours''; and

(3) by striking subparagraph (D).

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. REVIEW OF CONSTITUTIONAL ISSUES.

An appeal may be taken directly to the Supreme Court of the United States from any final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

SEC. 403. EFFECTIVE DATE.

Except as otherwise provided for in this Act, this Act and the amendments made by this Act shall take effect on January 1, 2008.

By Mrs. CLINTON (for herself and Mr. ALLARD):

S. 937. A bill to improve support and services for individuals with autism and their families; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today, I, along with my colleague Senator ALLARD, am proud to introduce the Expanding the Promise for Individuals with Autism Act (EPIAA.) This legislation will help to increase the availability of treatments, services, and interventions for both children and adults with autism.

Last year, I worked with my colleagues on the HELP Committee to pass the Combating Autism Act into law. This important bill will increase the amount and type of research we are doing to understand the origins of this disease, and help us develop new treatments—and eventually—a cure. It will also help to increase the ability of our health professionals to screen and diagnose autism as early as possible in children, so as to improve our ability to treat this disease.

But while we are carrying out the research that will lead us to gain a better understanding of this disorder, we cannot forget those who are and who have been living with this disease today—the families who are desperate for assistance and help with a disorder that so often shuts off individuals from the world around them.

The need for this legislation is evident—we continue to see an increasing number of individuals with autism. Last month, the Centers for Disease Control and Prevention released numbers that estimate that one in every 150 children are living with an autism spectrum disorder, numbers that are higher than those released even just a few short years ago. And our service delivery system for individuals with autism is being overwhelmed by this increase. The care involved in treating these symptoms often requires hours of intensive therapy every week—regimens that are often inaccessible to many families.

While we do not know what causes autism, we do know that with early intervention and concentrated treatment, the symptoms of autism spectrum disorder can be mitigated, enabling individuals with autism and their families to live less isolated lives. Our legislation will provide additional treatment and support resources, increasing access to effective therapies and essential support services for people with autism.

This legislation will do the following: Establish a Demonstration Grant Program to Assist States with Service Provision. While the Interagency Autism Coordinating Committee (IACC) is developing a long-term strategy for providing autism care and treatment services, there is currently no effort to plan for improved access to services in the immediate future. The EPIAA would establish a Treatment, Interventions and Services Evaluation Task Force to evaluate evidence-based services that could be implemented by States in the years immediately following enactment. The Secretary would then provide grants to states to help provide the services identified by the Task Force to individuals with autism.

Develop a Demonstration Grant Program for Adult Autism Services. While early diagnosis and treatment are critical for children with autism, the need for intervention and services continues across the lifespan. In order to help address the needs of adults living with autism, the EPIAA would establish a grant program for states to provide appropriate interventions and services, such as housing or vocational training, to adults with autism.

Increase Access to Services Following Diagnosis. After receiving a diagnosis of autism, many children and families must wait months before gaining access to appropriate treatment. In order to improve the ability to access a minimum level of services during this post-diagnosis period, the EPIAA would mandate that the Secretary develop guidance and provide funding to eliminate delays in access to supplementary health care, behavioral support services, and individual and family-support services.

Increase Support for Developmental Disabilities Centers of Excellence. Many families report difficulties in accessing services because of the limited number of health and education professionals who are trained to provide autism-specific services. In order to increase the number of individuals across sectors that can provide adequate care and treatment services for individuals living with autism, the EPIAA would increase the capacity of University Centers for Excellence in Developmental Disabilities Education, Research and Service (UCEDDS) to train professionals in meeting the treatment, interventions and service needs of both children and adults living with autism.

Improve Protection and Advocacy Services. Early statistics from 2006 indicate that a quarter of individuals served under already-existing protection and advocacy programs are individuals with autism, a 6 percent increase from the previous year, yet thousands of individuals with autism are unable to access these services due to a lack of resources. The EPIAA will create a program to expand currently existing protection and advocacy services to assist individuals with autism and other emerging populations of individuals with disabilities.

Improves Technical Assistance and Evaluation. The EPIAA would establish a National Technical Assistance Center for Autism Treatments, Interventions and Services to act as a clearinghouse for information about evidence-based treatments, interventions and services, and analyze the grant programs under this Act.

The organizations supporting this legislation include Autism Speaks, the Autism Society of America, Easter Seals, the Association of University Centers for Disability, the Disability Policy Collaboration, and the National Disability Rights Network, and I have included their letters of support to be printed in the RECORD.

I look forward to working with Senator ALLARD and all of our colleagues to pass this legislation and help people with autism get the services they need.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUTISM SPEAKS,
New York, NY, March 19, 2007.

Hon. HILLARY RODHAM CLINTON,
U.S. Senator,
Washington, DC.

DEAR SENATOR CLINTON: I write to offer the enthusiastic endorsement of Autism Speaks for your proposed legislation, ''The Expanding the Promise for Individuals with Autism Act of 2007'' (''EPIAA'') and to thank you for your ongoing leadership in providing an appropriate and necessary federal response to the urgent national public health issue of autism.

Your bill is the logical next step for Congress to take in creating a national battle plan against autism, following the passage last year, with your significant support, of the Combating Autism Act.

The CAA deals primarily with biomedical research and with systems for the early identification of children with autism. The EPIAA will expand and intensify the federal commitment to the provision of services to persons with autism, from the immediate period following their diagnosis, throughout their lifespan.

In addition to the authorization of critical new resources for important initiatives related to treatments, interventions and services for both children and adults with autism, Autism Speaks applauds the Congressional finding you have drafted into the EPIAA that—''Individuals living with autism have the same rights as other individuals to exert control and choice over their own lives, to live independently, and to fully participate in and contribute to their communities . . .''

The range of grant programs authorized by the EPIAA will demonstrate mechanisms to fill large gaps in the present system for the delivery of autism treatments, interventions and services. The task force to be created by your legislation—including vital input from the autism community—will facilitate consensus on the state of evidence-based treatments and services. And the GAO study, which your legislation requires, will provide the basis for dramatically improved service provision and financing.

Once again, please accept the support and gratitude of Autism Speaks for the EPIAA. We look forward to working with you and your fine staff to enact these essential policies into law.

Sincerely,

ROBERT C. WRIGHT.

AUTISM SOCIETY OF AMERICA,
Bethesda, MD, March 20, 2007.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

Hon. WAYNE ALLARD,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON AND SENATOR ALLARD: On behalf of the 1.5 million Americans with autism and their families, we at the Autism Society of America (ASA) write in strong support of the Expanding the Promise for Individuals with Autism Act of 2007.

Autism is a complex developmental disability that affects the normal functioning of the brain, impacting development in the areas of social interaction and communication skills. Both children and adults with autism typically show difficulties in verbal and non-verbal communication, social interactions, and sensory processing. Research has demonstrated that with early diagnosis, treatment, and intervention, however, individuals with autism can experience positive change in the language, social, or cognitive outcomes. Unfortunately, as the Centers for Disease Control and Prevention's autism prevalence study of 2007 showed, far too many children with autism are not accessing the early interventions, treatments, and services that they need.

Just as critical, our current system for providing community based services does not meet the complex needs of adults with autism. Frequently, staff is not trained and experienced in autism and is often at a loss when trying to handle the unusual language, cognitive, behavioral and social deficits of autism. As a result, adults with autism are not able to access employment, health care, housing, and community support services.

The Expanding the Promise for Individuals with Autism Act addresses these problems in many ways. This critical legislation provides approximately $350 million to improve access to comprehensive treatments, interventions, and services for individuals with autism and their families. The Expanding the Promise for Individuals with Autism Act comes at a time when autism prevalence is increasing to more than 1 in 150 children in America today. As our Nation faces the epidemic of autism, we must take steps now to strengthen our services infrastructure to meet the needs of individuals with autism and their families so that they too can lead happy and productive lives throughout their lives.

ASA strongly supports the Expanding the Promise for Individuals With Autism Act of 2007, and applauds you for your leadership on this important issue. We urge all Senators to join you in cosponsoring this important legislation.

Thank you, again, for your support of people with autism and their families.

Sincerely,

LEE GROSSMAN,
President and CEO.

DISABILITY POLICY COLLABORATION,
Washington, DC, March 20, 2007.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: The Disability Policy Collaboration (DPC), a partnership of The Arc of the United States and United Cerebral Palsy, appreciates your leadership on behalf of children and adults with autism spectrum disorders and related developmental disabilities. The DPC is pleased to support the ''Expanding the Promise for Individuals with Autism Act of 2007'' and its emphasis on developing and providing effective interventions, supports and services to individuals with autism spectrum disorders and their families.

Most individuals with autism spectrum disorder and related developmental disabilities need major assistance in the areas of early intervention, education, employment, transportation, housing and health. Expanding the capacity of the service delivery system to meet these needs and providing better coordination of services will enable the individuals and families to access appropriate assistance to live independently and fully participate in their communities.

The Disability Policy Collaboration applauds your commitment to individuals with autism spectrum disorders and related developmental disabilities and their families and looks forward to working with you on speedy passage of this bill in the 110th Congress.

Sincerely,

PAUL MARCHAND,
Staff Director.

ASSOCIATION OF UNIVERSITY CENTERS ON DISABILITIES,
Silver Spring, MD, March 19, 2007.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: On behalf of the Association of University Centers on Disabilities (AUCD), this letter is to thank you for your outstanding work and leadership on behalf of children and adults with autism spectrum disorders and related developmental disabilities. AUCD is in strong support of your legislation to develop and provide effective treatments, interventions, supports and services to individuals with autism spectrum disorders and their families.

The prevalence of autism appears to be growing. According to a recent report by the Centers for Disease Control and Prevention, the prevalence of autism has reached epidemic proportions, now affecting one in every 150 children. Clearly from the information we get from our Centers and families, our current service system is unprepared to meet the growing needs of individuals with autism and their families. There are pressing needs for trained professionals and providers

to better serve children and adults with autism with the latest evidence based information and effective practices. Furthermore, while early detection and treatment are essential, families of children with autism often face numerous obstacles for obtaining high quality services for their children. Similarly, adults with autism face long waiting lists and many barriers in obtaining appropriate community-based supports and services to enable them to participate fully in society. The Expanding the Promise to Individuals with Autism Act that you have developed greatly helps to address these issues by providing demonstration grants to states to provide immediate assistance to individuals and their families.

The membership of AUCD includes a network of 67 University Centers for Excellence in Developmental Disabilities located in every U.S. state and territory. These University Centers provide research, education, and service to further independence, productivity, and quality of life for individuals with developmental disabilities, including autism. University Centers collaborate with stakeholders in states to identify and address training needs in creative and effective ways. As the prevalence of autism has risen, University Centers have initiated many activities to help meet the growing need for children, adults, and families. This bill builds upon these efforts by expanding the capacity of University Centers to focus on interdisciplinary training of professionals and providers in the area of autism, provide technical assistance, and disseminate information on effective community-based treatment, interventions and services.

AUCD applauds your commitment to individuals with autism and their families and looks forward to working with you on speedy passage of this bill in the 110th Congress.

Sincerely,

ROYAL WALKER,
Board President & Associate Director, Institute for Disability Studies, University of Southern Mississippi.
GEORGE JESIEN,
Executive Director, AUCD.

EASTER SEALS,
Washington, DC, March 20, 2007.

Hon. HILLARY RODHAM CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: Easter Seals is pleased to support the Expanding the Promise for Individuals with Autism Act of 2007. This legislation will go a long way to help children and adults with autism spectrum disorders and other developmental disabilities live, learn, work and play in their communities.

The Expanding the Promise for Individuals with Autism Act of 2007 (EPIAA) is necessary legislation that must become law. Research has demonstrated that children who are diagnosed by age 2 and who receive appropriate services can live with greater independence. Yet, too many children are not diagnosed until age 5. The EPIAA will allow us to do better for these children. Parents and young adults with autism across the country report that too many youth exit the school system, needing housing and job training opportunities that are in short supply. The EPIAA will allow us to do better. Finally, parents, schools, and communities are struggling to find the answers of how to provide appropriate services and supports to individuals with autism. The EPIAA will allow us to do better in this area as well.

Over the last 20 years, Easter Seals has seen a dramatic increase in the number of people we serve who live with autism. More than a generation ago, Easter Seals was front and center during the polio epidemic, working tirelessly to help children and adults with polio gain the skills they need to live independently. Today, we are the country's leading provider of services for people with autism.

Thank you for sponsoring this important legislation. We look forward to working with you on the enactment of the Expanding the Promise for Individuals with Autism Act of 2007.

Sincerely,

KATHERINE BEH NEAS,
Director, Congressional Affairs.

NATIONAL DISABILITY RIGHTS NETWORK,
Washington, DC, March 20, 2007.

Hon. HILLARY CLINTON,
Russell Senate Office Building,
Washington, DC.
Hon. WAYNE ALLARD,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATORS CLINTON AND ALLARD: The National Disability Rights Network (NDRN) is pleased with your introduction of the Expanding the Promise for Individuals with Autism Act of 2007. NDRN is the nonprofit membership organization for the federally mandated Protection and Advocacy (P&A) Systems and Client Assistance Programs (CAP). The P&A/CAP network operates in every state and territory in the United States. Collectively, the P&A/CAP network is the largest provider of legally based advocacy services to people with disabilities in the United States.

Currently, the P&A network is on the front-line of work with individuals with autism and their families. Early statistics from FY 2006 indicate that 25 percent of the people served by the Protection and Advocacy for Developmental Disabilities program (PADD) were individuals with autism. This is an increase of 6 percent from the previous year. Unfortunately, due to the high demand for P&A services from children and adults with all types of disabilities and their families—and the concomitant inadequate funding for the P&A programs—thousands of individuals with autism were unable to access critical P&A services.

Key components of the P&A network's legally based advocacy include investigating abuse and neglect; seeking systemic change to prevent harm to children and adults with disabilities; advocating for basic human and civil rights; and ensuring accountability in education, employment, housing, public services, transportation, and health care. Each of these components is critical to ensuring that individuals with autism—no matter their age—get access to the supports and services they need to live as successfully and as safely as possible in the community.

Parents of children with autism—both young children and adult children—know the important role that P&A services can play in their lives. They have advocated for the inclusion of a P&A component in this legislation in order to increase the ability to serve this vulnerable population. These families know that once this program is authorized and funded, the P&A in their state will be mandated to make autism a priority for services, providing individuals and their families with the help needed to live full and successful lives.

NDRN is pleased to work with you on the passage of this legislation, and to ensure that critical services and supports are available to both children and adults with autism. For more information, please contact Kathy McGinley, Deputy Executive Director for Public Policy.

Sincerely,

CURT DECKER,
Executive Director.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, and Mr. SANDERS):

S. 938. A bill to amend the Higher Education Act of 1965 to expand college access and increase college persistence, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Ms. COLLINS, Mr. KENNEDY, Mrs. MURRAY, and Mr. SANDERS):

S. 939. A bill to amend the Higher Education Act of 1965 to simplify and improve the process of applying for student assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, today I introduce two bipartisan bills to expand access to college for students and their families.

We are slated to reauthorize the Higher Education Act this Congress for the first time since 1998. The key to this reauthorization will be ensuring that we make a substantial Federal investment in need-based grant aid. I am pleased we took a significant first step down this path last month by increasing the maximum Pell Grant, the Federal Government's primary source of need-based financial aid, for the first time in four years. However, we are still far from the robust lift Congress provided students and their families in the mid-1970s, when the maximum Pell Grant covered 84 percent of costs at a public 4-year institution. Today, it covers only 32 percent.

There has also been a concurrent increase in college costs. According to a recent report by the College Board, for the 2006–07 school year, tuition rose 6.3 percent at 4-year public colleges and 5.9 percent for 4-year private institutions. The combination of declining Federal investments in need-based aid and sharp increases in college costs has priced more and more qualified individuals out of college.

This is particularly troubling, given the strong correlation between educational attainment, employment, and wages. A college education has now increasingly become a necessary requirement for upward income mobility. College graduates, on average, earn 62 percent more than high school graduates. Over a lifetime, the gap in earnings between those with a high school diploma and a bachelor's or higher degree exceeds $1 million.

To help increase the amount of need-based grant aid to low-income students and fulfill their unmet financial aid need, today I introduce the ACCESS, Accessing College through Comprehensive Early Outreach and State Partnerships, Act, cosponsored by Senators COLLINS, KENNEDY, MURRAY, DODD, and

SANDERS. This legislation improves the Leveraging Educational Assistance Partnership or LEAP program by forging a new Federal incentive for States to form partnerships with businesses, colleges, and private or philanthropic organizations to provide low-income students with increased need-based grant aid, early information and assurance of aid eligibility (beginning in middle school), and early intervention, mentoring, and outreach services. Research has shown that college access programs that combine these elements are successful in making the dream of higher education a reality. Students participating in such programs are more financially and academically prepared, and thus, more likely to enroll in college and persist to degree completion.

Since 1972, the Federal-State partnership embodied by LEAP, with modest Federal support, has helped leverage State grant aid to low-and moderate-income students. Without this important Federal incentive, many States would never have established need-based financial aid programs, and many States would not continue to maintain such programs. Last year, States matched approximately $65 million in Federal LEAP funds with over $840 million in supplemental need-based aid. By way of example, in my home State of Rhode Island, the Federal investment of approximately $350,000 in LEAP funds spurred the State to expend over $13 million in need-based aid.

The second bill I introduce today, the FAFSA Financial Aid Form Simplification and Access Act, cosponsored by Senators COLLINS, KENNEDY, MURRAY, and SANDERS, has several key components to make the college financial aid application process both simple and certain. First, our legislation would allow more students to qualify for an automatic-zero expected family contribution, or auto-zero, and align the auto-zero eligibility levels, income of $30,000 or less, with the standards of other Federal means-tested programs like school lunch, SSI, and food stamps. Second, the FAFSA Act would establish a short paper FAFSA or EZ-FAFSA for students who qualify for the auto-zero. Third, the bill phases out the long form, using the savings to utilize ''smart'' technology to create a tailored web-based application form and ensure that students answer only the questions needed to determine financial aid eligibility in the state in which they reside. For those students who do not have access to the Internet, we propose creating a free telefile system for filing by phone.

The FAFSA Act would also emphasize providing students with the opportunity to complete financial applications earlier in order to receive early estimates of aid eligibility. This legislation would create a pilot program to test an early application system under which dependent students would apply for an aid estimate in their junior year, using the student's prior/prior year income (PPY). The pilot program also includes a requirement that the Secretary study the feasibility, benefits, and adverse effects of utilizing information from the IRS in order to simplify the financial aid process.

I was pleased to work with the Advisory Committee on Student Financial Assistance and a host of other higher education organizations and charitable foundations on these bills. I am also pleased that both bills are supported by a range of higher education and student groups, including the American Association of Community Colleges, the American Council on Education, the Association of American Universities, the Association of Jesuit Colleges and Universities, the Center for Law and Social Policy, the National Association of College Admission Counseling, the National Association of Independent Colleges and Universities, the National Association of State Student Grant and Aid Programs, the National Association of Student Financial Aid Administrators, the United States Student Association, and the College Parents of America. The FAFSA Act is supported by the Council of Graduate Schools as well.

We must act on these bills and continue to push for increased Federal investment in need-based aid to middle- and low-income students and their families. All too often successful students give up on a college education because they think there is no way they can ever afford it. We must ensure that every student who works hard and plays by the rules gets the opportunity to live the American Dream.

I urge my colleagues to cosponsor these bills and work for their inclusion in the upcoming reauthorization of the Higher Education Act.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 938

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 ''Accessing College through Comprehensive Early Outreach and State Partnerships Act''.

SEC. 2. GRANTS FOR ACCESS AND PERSISTENCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c(b)) is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this subpart $500,000,000 for fiscal year 2008, and such sums as may be necessary for each of the 5 succeeding fiscal years.

''(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess amount shall be available to carry out section 415E.''.

(b) APPLICATIONS FOR LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAMS.—Section 415C(b) of the Higher Education Act of 1965 (20 U.S.C. 1070c–2(b)) is amended—

(1) in paragraph (2), by striking ''$5,000'' and inserting ''$12,500'';

(2) in paragraph (9), by striking ''and'' after the semicolon;

(3) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(11) provides notification to eligible students that such grants are—

''(A) Leveraging Educational Assistance Partnership Grants; and

''(B) funded by the Federal Government and the State.''.

(c) GRANTS FOR ACCESS AND PERSISTENCE.—Section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a) is amended to read as follows:

''SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

''(a) PURPOSE.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

''(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties to carry out activities under this section and to provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend college;

''(2) provide need-based access and persistence grants to eligible low-income students;

''(3) provide early notification to low-income students of their eligibility for financial aid; and

''(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

''(b) ALLOTMENTS TO STATES.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share of the cost of carrying out the activities under subsection (d).

''(B) DETERMINATION OF ALLOTMENT.—In making allotments under subparagraph (A), the Secretary shall consider the following:

''(i) CONTINUATION OF AWARD.—If a State continues to meet the specifications established in its application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

''(ii) PRIORITY.—The Secretary shall give priority in making allotments to States that meet the requirements under paragraph (2)(B)(ii).

''(2) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of carrying out the activities under subsection (d) for any fiscal year shall not exceed 66.66 percent.

''(B) DIFFERENT PERCENTAGES.—The Federal share under this section shall be determined in accordance with the following:

''(i) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State, and philanthropic organizations that are located in, or that provide funding in, the State or private corporations that are located in, or that do business in, the State,

then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

''(ii) If a State applies for an allotment under this section in partnership with any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State, philanthropic organizations that are located in, or that provide funding in, the State, and private corporations that are located in, or that do business in, the State, then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 66.66 percent.

''(C) NON-FEDERAL SHARE.—

''(i) IN GENERAL.—The non-Federal share under this section may be provided in cash or in kind, fairly evaluated.

''(ii) IN KIND CONTRIBUTION.—For the purpose of calculating the non-Federal share under this subparagraph, an in kind contribution is a non-cash contribution that—

''(I) has monetary value, such as the provision of—

''(aa) room and board; or

''(bb) transportation passes; and

''(II) helps a student meet the cost of attendance at an institution of higher education.

''(iii) EFFECT ON NEEDS ANALYSIS.—For the purpose of calculating a student's need in accordance with part F, an in kind contribution described in clause (ii) shall not be considered an asset or income of the student or the student's parent.

''(c) APPLICATION FOR ALLOTMENT.—

''(1) IN GENERAL.—

''(A) SUBMISSION.—A State that desires to receive an allotment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENT.—An application submitted under subparagraph (A) shall include the following:

''(i) A description of the State's plan for using the allotted funds.

''(ii) Assurances that the State will provide matching funds, from State, institutional, philanthropic, or private funds, of not less than 33.33 percent of the cost of carrying out the activities under subsection (d). Matching funds from philanthropic organizations used to provide early information and intervention, mentoring, or outreach programs may be in cash or in kind. The State shall specify the methods by which matching funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title. A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's matching obligation under this clause.

''(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

''(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d).

''(v) A description of the steps the State will take to ensure students who receive grants under this section persist to degree completion.

''(vi) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479(c), to identify eligible low-income students and award State grant aid to such students.

''(vii) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

''(I) Leveraging Educational Assistance Partnership Grants; and

''(II) funded by the Federal Government and the State.

''(2) STATE AGENCY.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

''(3) PARTNERSHIP.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

''(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State;

''(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

''(C) not less than 1—

''(i) philanthropic organization located in, or that provides funding in, the State; or

''(ii) private corporation located in, or that does business in, the State.

''(4) ROLES OF PARTNERS.—

''(A) STATE AGENCY.—A State agency that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) serve as the primary administrative unit for the partnership;

''(II) provide or coordinate matching funds, and coordinate activities among partners;

''(III) encourage each institution of higher education in the State to participate in the partnership;

''(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

''(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

''(ii) may provide early information and intervention, mentoring, or outreach programs.

''(B) DEGREE GRANTING INSTITUTIONS OF HIGHER EDUCATION.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

''(i) shall—

''(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

''(II) provide support services to students who receive an access and persistence grant under this section and are enrolled at such institution; and

''(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

''(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

''(C) PROGRAMS.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

''(D) PHILANTHROPIC ORGANIZATION OR PRIVATE CORPORATION.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for access and persistence grants for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

''(d) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—

''(A) ESTABLISHMENT OF PARTNERSHIP.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award access and persistence grants to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

''(B) AMOUNT.—

''(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

''(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of an access and persistence grant awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership.

''(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student).

''(ii) PARTNERSHIP WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(ii), the amount of an access and persistence grant awarded by such State shall be not less than the average cost of attendance at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student) and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership.

''(2) EARLY NOTIFICATION.—

''(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), in grade 7 through grade 12 in the State of their potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

''(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

''(i) shall include—

''(I) information about early information and intervention, mentoring, or outreach programs available to the student;

''(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early

information and intervention, mentoring, or outreach program;

''(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

''(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

''(V) an explanation that in order to be eligible for an access and persistence grant, at a minimum, a student shall meet the requirement under paragraph (3), graduate from secondary school, and enroll at an institution of higher education that is a partner in the partnership;

''(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

''(VII) instructions on how to apply for an access and persistence grant and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

''(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

''(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

''(II) annual Federal and State appropriations; and

''(III) other aid received by the student at the time of the student's enrollment at an institution of higher education that is a partner in the partnership.

''(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that each such student meets not less than 1 of the following:

''(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

''(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

''(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

''(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

''(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

''(B) Is receiving, or has received, an access and persistence grant under this section, in accordance with paragraph (5).

''(4) GRANT AWARD.—Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

''(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

''(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

''(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

''(e) ADMINISTRATIVE COST ALLOWANCE.—A State that receives an allotment under this section may reserve not more than 3.5 percent of the funds made available annually through the allotment for State administrative functions required to carry out this section.

''(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

''(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

''(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

''(i) SPECIAL RULE.—Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

''(j) REPORTS.—Not later than 3 years after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.''.

(d) CONTINUATION AND TRANSITION.—During the 2-year period commencing on the date of enactment of this Act, the Secretary shall continue to award grants under section 415E of the Higher Education Act of 1965 (20 U.S.C. 1070c–3a), as such section existed on the day before the date of enactment of this Act, to States that choose to apply for grants under such predecessor section.

(e) IMPLEMENTATION AND EVALUATION.—Section 491(j) of the Higher Education Act of 1965 (20 U.S.C. 1098(j)) is amended—

(1) in paragraph (4), by striking ''and'' after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) (as amended by paragraph (1)) the following:

''(5) not later than 6 months after the date of enactment of the Accessing College through Comprehensive Early Outreach and State Partnerships Act, advise the Secretary on means to implement the activities under section 415E, and the Advisory Committee shall continue to monitor, evaluate, and make recommendations on the progress of partnerships that receive allotments under such section; and''.

S. 939

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 ''Financial Aid Form Simplification and Access Act''.

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

SEC. 2. SIMPLIFIED NEEDS TEST AND AUTOMATIC ZERO IMPROVEMENTS.

(a) SIMPLIFIED NEEDS TEST.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(A)(i)—

(i) in subclause (II), by striking ''or'' after the semicolon;

(ii) by redesignating subclause (III) as subclause (IV);

(iii) by inserting after subclause (II) the following:

''(III) 1 of whom is a dislocated worker; or''; and

(iv) in subclause (IV) (as redesignated by clause (ii), by striking ''12-month'' and inserting ''24-month''; and

(B) in subparagraph (B)(i)—

(i) in subclause (II), by striking ''or'' after the semicolon;

(ii) by redesignating subclause (III) as subclause (IV);

(iii) by inserting after subclause (II) the following:

''(III) 1 of whom is a dislocated worker; or''; and

(iv) in subclause (IV) (as redesignated by clause (ii), by striking ''12-month'' and inserting ''24-month'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in clause (ii), by striking ''or'' after the semicolon;

(II) by redesignating clause (iii) as clause (iv);

(III) by inserting after clause (ii) the following:

''(iii) 1 of whom is a dislocated worker; or''; and

(IV) in clause (iv) (as redesignated by subclause (II), by striking ''12-month'' and inserting ''24-month''; and

(ii) in subparagraph (B), by striking ''20,000'' and inserting ''$30,000''; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clause (ii), by striking ''or'' after the semicolon;

(II) by redesignating clause (iii) as clause (iv);

(III) by inserting after clause (ii) the following:

''(iii) is a dislocated worker; or''; and

(IV) in clause (iv) (as redesignated by subclause (II), by striking ''12-month'' and inserting ''24-month''; and

(ii) in subparagraph (B), by striking ''$20,000'' and inserting ''$30,000''; and

(C) in the flush matter following paragraph (2)(B), by adding at the end the following: ''The Secretary shall annually adjust the income level necessary to qualify an applicant for the zero expected family contribution. The income level shall be adjusted according to increases in the Consumer Price Index, as defined in section 478(f).''; and

(3) in subsection (d)—

(A) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively;

(B) by striking ''(d) DEFINITION'' and all that follows through ''the term'' and inserting the following:

''(d) DEFINITIONS.—In this section:

''(1) DISLOCATED WORKER.—The term 'dislocated worker' has the meaning given the term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

''(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term''.

(b) DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.—Section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) is amended in the third sentence by inserting ''a family member who is a dislocated worker (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)),'' after ''recent unemployment of a family member,''.

(c) REPORTING REQUIREMENTS.—

(1) ELIGIBILITY GUIDELINES.—The Secretary of Education shall regularly evaluate the impact of the eligibility guidelines in subsections (b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b)(1)(A)(i), (b)(1)(B)(i), (c)(1)(A), and (c)(2)(A)).

(2) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The Secretary shall evaluate every 3 years the impact of including whether a student or parent received benefits under a means-tested Federal benefit program (as defined in section 479(d) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(d)) as a factor in determining eligibility under subsections (b) and (c) of section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss(b) and (c)).

SEC. 3. IMPROVING PAPER AND ELECTRONIC FORMS.

(a) SIMPLIFIED NEEDS TEST.—Section 479(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ss(a)) is amended by adding at the end the following:

''(3) SIMPLIFIED FORMS.—The Secretary shall make special efforts to notify families meeting the requirements of subsection (c) that such families may use the EZ FAFSA described in section 483(a)(2)(B) and notify families meeting the requirements of subsection (b) that such families may use the simplified electronic application form described in section 483(a)(3)(B).''.

(b) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—Section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1), (2), and (5);

(B) by redesignating paragraphs (3), (4), (6), and (7), as paragraphs (8), (9), (10), and (11), respectively;

(C) by inserting before paragraph (8), as redesignated by subparagraph (B), the following:

''(1) IN GENERAL.—

''(A) COMMON FINANCIAL REPORTING FORMS.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance under parts A through E (other than subpart 4 of part A). These forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid' or 'FAFSA'.

''(B) EARLY ANALYSIS.—The Secretary shall permit an applicant to complete a form described in this subsection prior to enrollment in order to obtain an estimate from the Secretary of the applicant's expected family contribution. Such applicant shall be permitted to update the information contained on a form submitted pursuant to the preceding sentence, using the process described in paragraph (4), for purposes of applying for assistance under this title for the first academic year for which the applicant applies for financial assistance under this title.

''(2) PAPER FORMAT.—

''(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of section 479(c).

''(B) EZ FAFSA.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements of section 479(c).

''(ii) REDUCED DATA REQUIREMENTS.—The EZ FAFSA shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(c).

''(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

''(C) PHASING OUT THE PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE AUTOMATIC ZERO EXPECTED FAMILY CONTRIBUTION.—

''(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

''(ii) PHASEOUT OF FULL PAPER FAFSA.—Not later than 5 years after the date of enactment of the Financial Aid Form Simplification and Access Act, to the extent practicable, the Secretary shall phaseout the printing of the full paper Free Application for Federal Student Aid described in subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

''(iii) AVAILABILITY OF FULL PAPER FAFSA.—

''(I) IN GENERAL.—Prior to and after the phaseout described in clause (ii), the Secretary shall maintain an online printable version of the paper forms described in subparagraphs (A) and (B).

''(II) ACCESSIBILITY.—The online printable version described in subclause (I) shall be made easily accessible and downloadable to students on the same website used to provide students with the electronic application forms described in paragraph (3).

''(III) SUBMISSION OF FORMS.—The Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded and printed in order to meet the filing requirements of this section and to receive aid from programs established under this title.

''(iv) USE OF SAVINGS TO ADDRESS THE DIGITAL DIVIDE.—

''(I) IN GENERAL.—The Secretary shall utilize savings accrued by phasing out the full paper Free Application for Federal Student Aid and moving more applicants to the electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

''(II) REPORT.—The Secretary shall report annually to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives on steps taken to eliminate the digital divide and on the phaseout of the full paper Free Application for Federal Student Aid described in subparagraph (A). The report shall specifically address the impact of the digital divide on independent students, adults, and dependent students, including students completing applications described in this paragraph and paragraphs (3) and (4).

''(3) ELECTRONIC FORMAT.—

''(A) IN GENERAL.—

''(i) ESTABLISHMENT.—The Secretary shall produce, distribute, and process common financial reporting forms in electronic format (such as through a website called 'FAFSA on the Web') to meet the requirements of paragraph (1). The Secretary shall include an electronic version of the EZ FAFSA form for applicants who meet the requirements of section 479(c) and develop common electronic forms for applicants who meet the requirements of section 479(b) and common electronic forms for applicants who do not meet the requirements of section 479(b).

''(ii) STATE DATA.—The Secretary shall include on the common electronic forms described in clause (i) space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5). The Secretary may not require an applicant to complete data required by any State other than the applicant's State of residence.

''(iii) STREAMLINED FORMAT.—The Secretary shall use, to the fullest extent practicable, all available technology to ensure that a student answers only the minimum number of questions necessary.

''(B) SIMPLIFIED APPLICATION.—

''(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

''(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application form shall permit an applicant to submit for financial assistance purposes, only the data elements required to make a determination of whether the applicant meets the requirements under section 479(b).

''(iii) STATE DATA.—The Secretary shall include on the simplified electronic application form space for information that is required of an applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to

use the simplified electronic application form.

''(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application form, and the data collected by means of the simplified electronic application form shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (8).

''(v) TESTING.—The Secretary shall conduct appropriate field testing on the form developed under this subparagraph.

''(C) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit the use of the form developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software provider, a consortium of such entities, or such other entities as the Secretary may designate.

''(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such electronic version of the form shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the form shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

''(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form to be submitted without a signature, if a signature is subsequently submitted by the applicant.

''(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

''(i) to enable the applicants to use such numbers in lieu of a signature for purposes of completing a form under this paragraph; and

''(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

''(G) PERSONAL IDENTIFICATION NUMBER IMPROVEMENT ASSESSMENT AND REPORT.—

''(i) ASSESSMENT.—The Secretary shall conduct an assessment of the feasibility of minimizing, and of eliminating, the time required for applicants to obtain a Personal Identification Number when applying for aid under this title through an electronic format (such as through a website called 'FAFSA on the Web') including an examination of the feasibility of implementing a real-time data match between the Social Security Administration and the Department.

''(ii) REPORT.—The Secretary shall report the findings of the assessment described in clause (i) to Congress not later than 6 months after the date of enactment of the Financial Aid Form Simplification and Access Act, including the next steps that may be taken to minimize the time required for applicants to obtain a Personal Identification Number when applying for aid under this title through an electronic format.

''(4) REAPPLICATION.—

''(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to the year in which such applicant first applied for financial assistance under this title.

''(B) UPDATED.—The Secretary shall determine, in cooperation with States, institutions of higher education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

''(C) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

''(5) STATE REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance in accordance with the terms of this subsection. The number of such data items shall not be less than the number included on the form on October 7, 1998, unless States notify the Secretary that they no longer require those data items for the distribution of State need-based aid.

''(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which forms and data items the States require to award need-based State aid and other application requirements that the States may impose.

''(C) FEDERAL REGISTER NOTICE.—The Secretary shall publish on an annual basis a notice in the Federal Register requiring each State agency to inform the Secretary—

''(i) if the agency is unable to permit applicants to utilize the forms described in paragraphs (2)(B) and (3)(B); and

''(ii) of the State-specific data that the agency requires for delivery of State need-based financial aid.

''(D) STATE NOTIFICATION TO THE SECRETARY.—

''(i) IN GENERAL.—Each State shall notify the Secretary—

''(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid; and

''(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

''(ii) NO PERMISSION.—In the event that a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based grant aid—

''(I) the State shall notify the Secretary if it is not permitted to do so because of State law or because of agency policy; and

''(II) the notification under subclause (I) shall include an estimate of the program cost to permit applicants to complete the forms described in paragraphs (2)(B) and (3)(B).

''(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

''(I) permit residents of that State to complete the forms described in paragraphs (2)(B) and (3)(B); and

''(II) not require any resident of that State to complete any data previously required by that State.

''(E) RESTRICTION.—The Secretary shall not require applicants to complete any nonfinancial data or financial data that are not required by the applicant's State agency, except as may be required for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

''(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee by the Secretary, a contractor, a third party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may only be determined by using a form developed by the Secretary pursuant to this subsection. No student may receive assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form or other document, which the Secretary determines was created to replace a form prescribed under this subsection and therefore violates the integrity of a simplified and free financial aid application process, for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's Personal Identification Number for purposes of submitting an application on an applicant's behalf, other than a State agency, an eligible institution, or a program under this title that the Secretary permits to so request, obtain, or utilize an applicant's Personal Identification Number in order to streamline the application.

''(7) APPLICATION PROCESSING CYCLE.—The Secretary shall, prior to January 1 of a student's planned year of enrollment to the extent practicable—

''(A) enable the student to submit a form described under this subsection in order to meet the filing requirements of this section and receive aid from programs under this title; and

''(B) initiate the processing of a form under this subsection submitted by the student.''; and

(D) by adding at the end the following:

''(12) EARLY APPLICATION AND AWARD DEMONSTRATION PROGRAM.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall implement an early application demonstration program enabling dependent students to—

''(i) complete applications under this subsection in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education (as early as the Secretary determines practicable after January 1st of such junior year or academic year, respectively);

''(ii) receive an estimate of such students' final financial aid awards in such junior year or academic year, respectively;

''(iii) update, in the year prior to such students' planned year of enrollment (before January 1st of the planned year of enrollment to the extent practicable), the information contained in an application submitted under clause (i), using the process described in paragraph (4) to determine such students' final financial aid awards; and

''(iv) receive final financial aid awards based on updated information described in clause (iii).

''(B) PURPOSE.—The purpose of the demonstration program under this paragraph is to measure the benefits, in terms of student aspirations and plans to attend college, and the adverse effects, in terms of program costs, integrity, distribution, and delivery of aid under this title, of implementing an early application system for all dependent students that allows dependent students to apply for financial aid using information from the year prior to the year prior to enrollment at an institution of higher education. Additional objectives associated with implementation of the demonstration program are the following:

''(i) Measure the feasibility of enabling dependent students to apply for Federal, State, and institutional financial aid in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education, using information from the year prior to the year prior to enrollment, by completing any of the application forms under this subsection.

''(ii) Determine the feasibility, benefits, and adverse effects of utilizing information from the Internal Revenue Service in order to simplify the Federal student aid application process.

''(iii) Identify whether receiving estimates of final financial aid awards not later than a student's junior year, or the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education, positively impacts the college aspirations and plans of such student.

''(iv) Measure the impact of using income information from the year prior to the year prior to enrollment on—

''(I) eligibility for financial aid under this title and for other institutional aid; and

''(II) the cost of financial aid programs under this title.

''(v) Effectively evaluate the benefits and adverse effects of the demonstration program on program costs, integrity, distribution, and delivery of aid.

''(C) PARTICIPANTS.—The Secretary shall select, in consultation with States and institutions of higher education, States and institutions of higher education within the States interested in participating in the demonstration program under this paragraph. The States and institutions of higher education shall participate in programs under this title and be willing to make estimates of final financial aid awards to students based on such students' application information from the year prior to the year prior to enrollment. The Secretary shall also select as participants in the demonstration program secondary schools that are located in the participating States and dependent students who reside in the participating States.

''(D) APPLICATION PROCESS.—The Secretary shall ensure that the following provisions are included in the demonstration program:

''(i) Participating States and institutions of higher education shall—

''(I) encourage participating students to apply for estimates of final financial aid awards as provided under this title in such students' junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education, using information from the year prior to the year prior to enrollment;

''(II) provide estimates of final financial aid awards to participating students based on the students' application information from the year prior to the year of enrollment; and

''(III) make final financial aid awards to participating students based on the updated information contained on a form submitted using the process described in paragraph (4).

''(ii) Financial aid administrators at participating institutions of higher education shall be allowed to use such administrators' discretion in awarding financial aid to participating students, as outlined under section 479A.

''(E) FEASIBILITY STUDY.—The Secretary shall include in the demonstration program a study of the feasibility of utilizing data from the Internal Revenue Service in order to—

''(i) pre-populate electronic application forms for financial aid under this title (such as through a website called 'FAFSA on the Web') with applicant information from the Internal Revenue Service;

''(ii) verify data provided by students participating in the demonstration program, including the feasibility of a data match; and

''(iii) award and deliver financial aid under this title.

''(F) EVALUATION.—The Secretary shall conduct a rigorous evaluation of the demonstration program in order to measure the program's benefits and adverse effects as the benefits and affects relate to the purpose and objectives described in subparagraph (B).

''(G) OUTREACH.—The Secretary shall make appropriate efforts in order to notify States of the demonstration program. Upon determination of which States will be participating in the demonstration program, the Secretary shall continue to make efforts to notify institutions of higher education and dependent students within such participating States of the opportunity to participate in the demonstration program and of the participation requirements.

''(H) CONSULTATION.—The Secretary shall consult with the Advisory Committee on Student Financial Assistance, established under section 491, on the design and implementation of the demonstration program and on the evaluation described in paragraph (F).'';

(2) by striking subsection (b) and inserting the following:

''(b) EARLY AWARENESS OF AID ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary shall make every effort to provide students with early information about potential financial aid eligibility.

''(2) AVAILABILITY OF MEANS TO DETERMINE ELIGIBILITY.—

''(A) IN GENERAL.—The Secretary shall provide, in cooperation with States, institutions of higher education, agencies, and organizations involved in student financial assistance, through a widely disseminated printed form and through the Internet or other electronic means, a system for individuals to determine easily, by entering relevant data, approximately the amount of grant, work-study, and loan assistance for which an individual would be eligible under this title upon completion and verification of a form under subsection (a).

''(B) DETERMINATION OF WHETHER TO USE SIMPLIFIED APPLICATION.—The system established under this paragraph shall also permit an individual to determine whether or not the individual may apply for aid using an EZ FAFSA described in subsection (a)(2)(B) or a simplified electronic application form described in subsection (a)(3)(B).

''(3) AVAILABILITY OF MEANS TO COMMUNICATE ELIGIBILITY.—

''(A) LOWER-INCOME STUDENTS.—The Secretary shall—

''(i) make special efforts to notify students who qualify for a free or reduced price lunch under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), or benefits under such programs as the Secretary shall determine, of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

''(ii) disseminate informational materials regarding the linkage between eligibility for means-tested Federal benefit programs and eligibility for a Federal Pell Grant, as determined necessary by the Secretary.

''(B) MIDDLE SCHOOL STUDENTS.—The Secretary shall, in cooperation with States, middle schools, programs under this title that serve middle school students, and other cooperating independent outreach programs, make special efforts to notify middle school students of the availability of financial assistance under this title and of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title.

''(C) SECONDARY SCHOOL STUDENTS.—The Secretary, in cooperation with States, secondary schools, programs under this title that serve secondary school students, and cooperating independent outreach programs, shall make special efforts to notify students in their junior year of secondary school, or in the academic year that is 2 years prior to such students' intended year of enrollment at an institution of higher education, of the approximate amounts of grant, work-study, and loan assistance an individual would be eligible for under this title upon completion and verification of an application form under subsection (a).'';

(3) in subsection (c)—

(A) by striking ''Labor and Human Resources'' and inserting ''Health, Education, Labor, and Pensions''; and

(B) by striking ''the Workforce'' and inserting ''Labor''; and

(4) by striking subsections (d) and (e), and inserting the following:

''(d) ASSISTANCE IN PREPARATION OF FINANCIAL AID APPLICATION.—

''(1) PREPARATION AUTHORIZED.—Nothing in this Act shall be construed to limit an applicant from using a preparer for consultative or preparation services for the completion of the common financial reporting forms described in subsection (a).

''(2) PREPARER IDENTIFICATION.—Any common financial reporting form required to be made under this title shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such common financial reporting form.

''(3) SPECIAL RULE.—Nothing in this Act shall be construed to limit preparers of common financial reporting forms required to be made under this title from collecting source information, including Internal Revenue Service tax forms, in providing consultative and preparation services in completing the forms.

''(4) ADDITIONAL REQUIREMENTS.—A preparer that provides consultative or preparation services pursuant to this subsection shall—

''(A) clearly inform individuals upon initial contact (including advertising in clear and conspicuous language on the website of the preparer, including by providing a link directly to the website described in subsection (a)(3), if the preparer provides such services through a website) that the common financial reporting forms that are required to determine eligibility for financial assistance under parts A through E (other than subpart 4 of part A) may be completed for

free via paper or electronic forms provided by the Secretary;

''(B) refrain from producing or disseminating any form other than the forms produced by the Secretary under subsection (a); and

''(C) not charge any fee to any individual seeking such services who meets the requirements under subsection (b) or (c) of section 479.''.

(c) TOLL-FREE APPLICATION AND INFORMATION.—Section 479 of the Higher Education Act of 1965 (20 U.S.C. 1087ss), as amended by subsection (b)(4), is further amended by adding at the end the following:

''(e) TOLL-FREE APPLICATION AND INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide an application mechanism and timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education or another appropriate provider of technical assistance and information on postsecondary educational services, that is supported under section 663 of the Individuals with Disabilities Education Act (20 U.S.C. 1463). Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall test and implement, to the extent practicable, a toll-free telephone-based application system to permit applicants who are eligible to utilize the EZ FAFSA described in section 483(a) over such system.''.

(d) MASTER CALENDAR.—Section 482(a)(1)(B) of the Higher Education Act of 1965 (20 U.S.C. 1089(a)(1)(B)) is amended to read as follows:

''(B) by March 1: proposed modifications and updates pursuant to sections 478, 479(c), and 483(a)(5) published in the Federal Register;''.

(e) SIMPLIFYING THE VERIFICATION PROCESS.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) is amended by adding at the end the following:

''(s) VERIFICATION OF STUDENT ELIGIBILITY.—

''(1) REGULATORY REVIEW.—The Secretary shall review all regulations of the Department related to verifying the information provided on a student's financial aid application in order to simplify the verification process for students and institutions.

''(2) REPORT.—Not later than 2 years after the date of enactment of the Financial Aid Form Simplification and Access Act, the Secretary shall prepare and submit a final report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives on steps taken, to the extent practicable, to simplify the verification process. The report shall specifically address steps taken to—

''(A) reduce the burden of verification on students who are selected for verification at multiple institutions;

''(B) reduce the number of data elements that are required to be verified for applicants meeting the requirements of subsection (b) or (c) of section 479, so that only those data elements required to determine eligibility under subsection (b) or (c) of section 479 are subject to verification;

''(C) reduce the burden and costs associated with verification for institutions that are eligible to participate in Federal student aid programs under this title; and

''(D) increase the use of technology in the verification process.''.

SEC. 4. SUPPORT FOR WORKING STUDENTS.

(a) DEPENDENT STUDENTS.—Section 475(g)(2)(D) of the Higher Education Act of 1965 (20 U.S.C. 1087oo(g)(2)(D)) is amended to read as follows:

''(D) $9,000;''.

(b) INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.—Section 476(b)(1)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended to read as follows:

''(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 478)—

''(I) $10,000 for single or separated students;

''(II) $10,000 for married students where both are enrolled pursuant to subsection (a)(2); and

''(III) $13,000 for married students where 1 is enrolled pursuant to subsection (a)(2);''.

(c) INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE.—Section 477(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1087qq(b)(4)) is amended to read as follows:

''(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

''Income Protection Allowance

Family Size	Number in College				
	1	2	3	4	5
2	$17,580	$15,230			
3	20,940	17,610	$16,260		
4	24,950	22,600	20,270	$17,930	
5	28,740	26,390	24,060	21,720	$19,390
6	32,950	30,610	28,280	25,940	23,610

NOTE: For each additional family member, add $3,280. For each additional college student, subtract $2,330.''.

SEC. 5. SIMPLIFICATION FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.

(a) INDEPENDENT STUDENT.—Section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)) is amended to read as follows:

''(d) INDEPENDENT STUDENT.—

''(1) DEFINITION.—The term 'independent', when used with respect to a student, means any individual who—

''(A) is 24 years of age or older by December 31 of the award year;

''(B) is an orphan, in foster care, or a ward of the court, or was in foster care or a ward of the court until the individual reached the age of 18;

''(C) is an emancipated minor or is in legal guardianship as determined by a court of competent jurisdiction in the individual's State of legal residence;

''(D) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1)) or is currently serving on active duty in the Armed Forces;

''(E) is a graduate or professional student;

''(F) is a married individual;

''(G) has legal dependents other than a spouse; or

''(H) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

''(2) SIMPLIFYING THE DEPENDENCY OVERRIDE PROCESS.—Nothing in this section shall be construed to prohibit a financial aid administrator from making a determination of independence, as described in paragraph (1)(H), based upon a determination of independence previously made by another financial aid administrator in the same application year.''.

(b) TAILORING ELECTRONIC APPLICATIONS FOR STUDENTS WITH SPECIAL CIRCUMSTANCES.—Section 483(a) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)), as amended by section 3(b)(1)(D), is further amended by adding at the end the following:

''(13) APPLICATIONS FOR STUDENTS SEEKING A DOCUMENTED DETERMINATION OF INDEPENDENCE.—In the case of a dependent student seeking a documented determination of independence by a financial aid administrator, as described in section 480(d), nothing in this section shall prohibit the Secretary from—

''(A) allowing such student to—

''(i) indicate the student's request for a documented determination of independence on an electronic form developed pursuant to this subsection; and

''(ii) submit such form for preliminary processing that only contains those data elements required of independent students, as defined in section 480(d);

''(B) collecting and processing on a preliminary basis data provided by such a student using the electronic forms developed pursuant to this subsection; and

''(C) distributing such data to institutions of higher education, guaranty agencies, and States for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards on a preliminary basis, pending a documented determination of independence by a financial aid administrator.''.

SEC. 6. DEFINITIONS.

(a) TOTAL INCOME.—Section 480(a)(2) of the Higher Education Act of (20 U.S.C. 1087vv(a)(2)) is amended—

(1) by striking ''and no portion'' and inserting ''no portion''; and

(2) by inserting ''and no distribution from any qualified education benefit described in subsection (f)(3) that is not subject to Federal income tax,'' after ''1986,''.

(b) ASSETS.—Section 480(f) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(f)) is amended—

(1) in paragraph (3), by striking ''shall not be considered an asset of a student for purposes of section 475'' and inserting ''shall be considered an asset of the parent for purposes of section 475'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

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

''(4) A qualified education benefit shall be considered an asset of the student for purposes of section 476 and 477.''.

(c) OTHER FINANCIAL ASSISTANCE.—Section 480(j)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(j)(2)) is amended by inserting '', or a distribution that is not includable in gross income under section 529 of such Code, under another prepaid tuition plan offered by a State, or under a Coverdell education savings account under section 530 of such Code,'' after ''1986''.

SEC. 7. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098) is further amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking ''and'' after the semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) to provide knowledge and understanding of early intervention programs and make recommendations that will result in early awareness by low- and moderate-income students and families of their eligibility for assistance under this title, and, to the extent practicable, their eligibility for other forms of State and institutional need-based student assistance; and

''(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions, and private entities to increase the awareness and total amount of need-based student assistance available to low- and moderate-income students.'';

(2) in subsection (d)—

(A) in paragraph (6), by striking '', but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses'';

(B) in paragraph (8), by striking ''and'' after the semicolon;

(C) by redesignating paragraph (9) as paragraph (10); and

(D) by inserting after paragraph (8) the following:

''(9) monitor the adequacy of total need-based aid available to low- and moderate-income students from all sources, assess the implications for access and persistence, and report those implications annually to Congress and the Secretary; and'';

(3) in subsection (j)—

(A) in paragraph (4), by striking ''and'' after the semicolon;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) monitor and assess implementation of improvements called for under this title, make recommendations to the Secretary that ensure the timely design, testing, and implementation of the improvements, and report annually to Congress and the Secretary on progress made toward simplifying overall delivery, reducing data elements and questions, incorporating the latest technology, aligning Federal, State, and institutional eligibility, enhancing partnerships, and improving early awareness of total student aid eligibility for low- and moderate-income students and families.''; and

(4) in subsection (k), by striking ''2004'' and inserting ''2011''.

By Mr. BAUCUS (for himself, Mr. HATCH, and Mr. CRAPO):

S. 940. A bill to amend the Internal Revenue Code of 1986 to permanently extend the subpart F exemption for active financing income; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am pleased to join my friends and Colleagues, Senator HATCH and Senator CRAPO in introducing legislation to make permanent the tax treatment in Subpart F for active financial services income earned abroad.

The legislation that we are introducing today is identical to a bill we introduced in the 109th Congress. Since then, this exemption has been temporarily extended. But that extension will expire at the end of next year. This exemption ensures that the active financial services income earned abroad by American financial services companies, or American manufacturing firms with a financial services operation, is not subject to U.S. tax until that income is brought home to the U.S. parent company.

By making this provision permanent, our legislation will put the American financial services industry on an equal footing with its foreign-based competitors. Those competitors do not face current home country taxation on active financial services income.

This bill is about jobs in Montana. And it is about jobs in each of our States. One of these competitive American financial services companies employs hundreds of Montanans in Great Falls alone. So the health of that company is critically important to my State.

American financial services companies successfully compete in world financial markets. We need to make sure, however, that the U.S. tax rules do not change that situation and make them less competitive in the world arena. This legislation will extend a provision that I believe preserves the international competitiveness of American-based financial services companies, including finance and credit companies, commercial banks, securities firms, and insurance companies. This provision also contains appropriate safeguards to ensure that only truly active businesses benefit.

The active financial services provision is critically important in today's global economy. America's financial services industry is a global leader. It plays a pivotal role in maintaining confidence in the international marketplace. This is a fiercely competitive business. And American-based companies would surely be disadvantaged with an additional tax burden if we allow this exemption to lapse. Through our network of trade agreements, we have made tremendous progress in gaining access to new foreign markets for this industry in recent years. Our tax laws should complement, and not undermine, this effort.

The temporary nature of the active financial services provision, like other expiring provisions, denies American companies the stability enjoyed by their foreign competitors. It is time to make permanent this subpart F active financial services provision. We need to allow American companies to make business decisions on a long-term basis.

I invite my Colleagues to join us in supporting this legislation to provide consistent, equitable, and stable tax treatment for the U.S. financial services industry.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 942. A bill to modify the boundaries for a certain empowerment zone designation; to the Committee on Finance.

By Ms. SNOWE (for herself and Ms. COLLINS):

S. 943. A bill to amend the Internal Revenue Code of 1986 to extend the period for which the designation of an area as an empowerment zone is in effect; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today with Senator COLLINS to introduce two pieces of legislation to help reverse the devastating population decline and economic distress that have plagued individuals and businesses in Aroostook County, the northernmost county in Maine, as well as in other parts of the country. What the first bill does is simple, it will bring all of Aroostook County under the Empowerment Zone (EZ) program. The legislation is identical to a bill that we introduced in the 108th Congress and was included in the FY 2004 Agriculture Appropriations bill in 2003 as passed by the Senate. The second piece of legislation would enable those economically depressed communities, already taking advantage of these incentives, to secure the full 15 years of targeted growth originally granted to the areas first designated as Empowerment Zones.

To fully grasp the importance of the former legislation, it is necessary to understand the unique situation facing the residents of Aroostook County. ''The County,'' as it is called by Mainers, is a vast and remote region of Maine. It shares more of its border with Canada than its neighboring Maine counties. It has the distinction of being the largest county east of the Mississippi River. Its geographic isolation is even more acute when considering that the county's relatively small population of 73,000 people are scattered throughout 6,672 square miles of rural countryside. Aroostook County is home to 71 organized townships, as well as 125 unorganized townships much of which is forest land and wilderness.

As profoundly remote as this geographic isolation may seem, it is the

economic isolation and the recent out-migration that has had the most devastating effect on the region. The economy of northern Maine has a historical dependence upon its natural resources, particularly forestry and agriculture. While these industries served the region well in previous decades, and continue to form the underpinnings of the local economy, many of these sectors have experienced decline and can no longer provide the number of quality jobs that residents require and deserve.

While officials in the region have put forward a herculean effort to redevelop the region, with nearly 1,000 new jobs at the Loring Commerce Center alone, Aroostook County is still experiencing a significant ''job deficit'', and as a result continues to lose population at an alarming rate. Since its peak in 1960, northern Maine's population has declined by 30 percent. Unfortunately, the Maine State Planning Office predicts that Aroostook County will continue losing population as more workers leave the area to seek opportunities and higher wages in southern Maine and the rest of New England.

In January 2002, a portion of Aroostook County was one of two regions that received Empowerment Zone status from the USDA for out-migration. The entire county experienced an out-migration of 15 percent from 86,936 in 1990 to 73,938 in 2000. Moreover, a staggering 40 percent of 15- to 29-year-olds left during the last decade.

The current zone boundaries were chosen based on the criteria that Empowerment Zones be no larger than 1,000 square miles, and have a maximum population of 30,000 for rural areas. The lines drawn for the Aroostook County Empowerment Zone were considered to be the most inclusive and reasonable given the constraints of the program. It should be noted as well that the boundaries were drawn based on the 1990 census, making the data significantly outdated at the start, and included the former Loring Air Force Base and its population of nearly 8,000 people, which had closed nearly 8 years before the designation, taking its military and much of its civilian workforces with it. The Maine State Planning Office estimated that the base closure resulted in the loss of 3,494 jobs directly related to the base and another 1,751 in associated industry sectors for a total loss of $106.9 million annual payroll dollars.

Some of the most distressed communities that have lost substantial population are not in the Empowerment Zone, and other communities, such as Houlton, literally are divided simply by a road, having one business on one side of the street with no Empowerment Zone designation across from a neighboring business on the other side of the street with full Empowerment Zone benefits. The economic factors for these communities and for these neighbors are the same as those areas within the Empowerment Zone. This designation is not meant to cause divisiveness within communities, it is created to augment a partnership for growth and to level the playing field for all Aroostook County communities who have equally suffered through continuing out-migration whether it be in Madawaska or Island Falls.

The legislation I am introducing would provide economic development opportunities to all reaches of Aroostook County by extending Empowerment Zone status to the entire county. This inclusive approach recognizes that the economic hardship and population out-migration are issues that the entire region must confront, and, as evidenced by their successful Round III EZ application, they are attempting to confront. I believe the challenges faced by Aroostook County are significant, but not insurmountable. This legislation would make great strides in improving the communities and business in northern Maine, and I urge my colleagues to support this bill.

With regards to the latter bill that I am offering today, I believe all Empowerment Zone communities need 15 years to reverse years of downward spiraling that originally effected their economies. I have long supported Empowerment Zone incentives and I believe that these targeted tax incentives provide struggling communities the best chance for sustained, long lasting economic renewal.

In 1994, Congress designated the first Empowerment Zones setting 2009, a 15-year time frame, as the date that these tax incentives would expire. The 2009 expiration date of Empowerment Zone status was held firm for Round II communities designated in 1997, and the Round III communities designated in 2002. As a result of the expiration date some communities such as Aroostook County, which was designated in 2002, are granted as few as 7 years to use tax incentives to overturn decades of decline and economic neglect.

Unfortunately, Aroostook's economic problems will not be fixed within the 7 short years this area qualifies for Empowerment Zone tax incentives. Instead a long-term and lasting commitment of at least 15 years is necessary to help Aroostook communities work their way to stronger economic prosperity. Many communities, such as Aroostook County, that were unable to qualify for Empowerment Zone status until 2002, are in dire need of the long-term 15-year window in which to address their stubborn causes of poverty.

Businesses operating within Empowerment Zones receive a 20 percent wage credit for the first $15,000 they pay in wages to local residents. Other tax incentives encourage businesses and industries to further commit to these communities. Companies with businesses in Empowerment Zones are eligible for an additional $35,000 worth of 179 business expensing—making these long-term business obligations more attractive, affordable and likely. Empowerment Zones are also eligible for expanded tax exempt financing for building the infrastructure communities need to attract long-term developers and business partners.

To qualify for Empowerment Zone status, communities develop comprehensive strategic plans that depend on these tax incentives to help them transform their economies. Each community's plan focuses on establishing long-term partnerships among private businesses, non profits, state, local, and federal government agencies to help develop the local economy. Together these parties use the community's strategic blue print to implement interconnected projects that address the factors creating the area's economic sickness. These types of projects concentrate on building much-needed business and industrial infrastructure, developing an educated workforce, and diversifying local economies away from a reliance on one employer or industry.

Through the Aroostook Partnership for Progress, and the businesses working in the Empowerment Zone, the County is making significant progress—the factors causing poverty in this rural part of Maine cannot be eradicated quickly. Aroostook County's strategic plan will take time to implement as infrastructure, industry and other initiatives produce greater economic capabilities and diversification. Though Aroostook County is working valiantly to overcome the factors causing their economic plight, they will need more than seven years to overcome 40 years of difficulties. I know that there are many other struggling Round II and Round III Empowerment Zone communities, such as Aroostook, who need the maximum, in order to reverse the poverty and underdevelopment also plaguing those areas.

I urge my colleagues to recognize the urgency of making a long-term pledge to communities using Empowerment Zone incentives to work its way out of long-term poverty. I hope that each Senator will support the communities in their states, currently undertaking the painful process of economic transformation, by supporting passage of this economic development bill.

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

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

S. 942

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

SECTION 1. MODIFICATION OF BOUNDARY OF AROOSTOOK COUNTY EMPOWERMENT ZONE.

(a) IN GENERAL.—The Aroostook County empowerment zone shall include, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation, notwithstanding the size requirement of section 1392(a)(3)(A) of the Internal Revenue Code of 1986 and the population requirements of section 1392(a)(1)(B) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as of the effective date of the designation of the Aroostook County empowerment zone by the Secretary of Agriculture.

S. 943

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

SECTION 1. EXTENSION OF ROUND II AND ROUND III EMPOWERMENT ZONES.

(a) IN GENERAL.—Clause (i) of section 1391(d)(1)(A) of the Internal Revenue Code of 1986 (relating to period for which designation is in effect) is amended by inserting ''(December 31, 2016, in the case of any empowerment zone designated under subsection (g) or (h))'' after ''2009''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 1391(h) of the Internal Revenue Code of 1986 (relating to additional designations permitted) is amended by striking ''2009'' and inserting ''2016''.

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

Ms. COLLINS. Mr. President, I am pleased to join my colleague, Senator OLYMPIA SNOWE, in introducing legislation that will expand the borders of the Aroostook County Empowerment Zone to include the entire County so that the benefits of Empowerment Zone designation can be fully realized in northern Maine.

The Department of Agriculture's Empowerment Zone program addresses a comprehensive range of community challenges, including many that have traditionally received little federal assistance, reflecting the fact that rural problems do not come in standardized packages but can vary widely from one place to another. The Empowerment Zone program represents a long-term partnership between the federal government and rural communities so that communities have enough time to implement projects to build the capacity to sustain their development beyond the term of the partnership. An Empowerment Zone designation gives designated regions potential access to federal grants for social services and community redevelopment as well as tax incentives to encourage economic growth.

Aroostook County is the largest county east of the Mississippi River. Yet, despite the impressive character and work ethic of its citizens, the County has fallen on hard times. The 2000 Census indicated a 15 percent loss in population since 1990. Loring Air Force Base, which was closed in 1994, also caused an immediate out-migration of 8,500 people and a further outmigration of families and businesses that depended on Loring for their customer base.

In response to these developments, the Northern Maine Development Commission and other economic development organizations, the private business sector, and community leaders in Aroostook have joined forces to stabilize, diversify, and grow the area's economy. They have attracted some new industries and jobs. As a native of Aroostook County, I can attest to the strong community support that will ensure a continued successful partnership with the U.S. Department of Agriculture.

Designating this region of the United States as an Empowerment Zone will help build its future economic prosperity. However, the restriction that the Empowerment Zone be limited to 1,000 square miles prevents all of Aroostook's small rural communities from benefitting from this program. Aroostook covers some 6,672 square miles but has a population of only 74,000. Including all of the County in the Empowerment Zone will guarantee that parts of the County will not be left behind in the quest for economic prosperity. It does little good to have a company move from one community to another within the County simply to take advantage of Empowerment Zone benefits.

Senator SNOWE and I introduced this legislation in both the 108th and 109th Congresses. In fact, we were successful in getting this legislation passed in the Senate by attaching it to the fiscal year 2004 Agriculture Appropriations bill. Unfortunately, this language was removed during conference negotiations with the House. Senator SNOWE and I remain committed to bringing the benefits of the Empowerment Zone designation to all of Aroostook County's residents and will work to pass this legislation in both chambers during this Congress.

By Mr. DURBIN (for himself and Mr. COLEMAN):

S. 945. A bill to ensure that college textbooks and supplemental materials are available and affordable; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, when we talk about college affordability, the discussion typically focuses on tuition costs, Pell grants and student loans. But we cannot talk about college affordability without also including college textbook costs in the same conversation.

Picture a bright, hard-working college student at the beginning of a new term. The student, who comes from a family of modest means, has managed to pay for tuition through a combination of grants, scholarships, student loans and part-time work. The student goes to her college bookstore to buy her textbooks. She walks out of the bookstore with her textbooks and wonders how she will be able to pay the $500 charge she just put on her credit card to buy the required books for her classes.

According to GAO, college textbook prices have risen an average of six percent each year since 1987 and at twice the rate of annual inflation over the last two decades. Textbook prices have been following increases in tuition and fees. Since December of 1986, textbook prices have increased by 186 percent and tuition and fees grew by 240 percent. GAO found that the primary contributing factor is the investment publishers have made to develop and produce supplemental materials such as CDs and Web-based tutorials.

The cost of textbooks and supplies as a percentage of tuition and fees depends on the type of institution the student is attending. GAO determined that the average estimated cost of books and supplies for full-time freshman students at four-year public schools was $898 in 2003, or about 26 percent of the cost of tuition and fees. At two-year public institutions, where the average student is more likely to be low-income, the average estimated cost was even higher due to lower tuition and fees at these schools. A first-year student at a two-year school spent a comparable amount—$886 on average, but that is nearly three-quarters of the cost of tuition and fees. Students at public two-year schools are trying to find an economical way to pursue higher education, but could easily be sidelined by high textbook costs.

What can be done to keep textbooks affordable for college students? Publishers, schools and bookstores can take any number of steps to help keep the cost of textbooks down. Schools, and in particular, professors, have tremendous power to help cut down the overall cost of textbooks. I was shocked to learn that many professors do not know the retail price of the textbook they are choosing for their class. The earlier a bookstore receives textbook information from a professor, the greater the ability of the bookstore to obtain cheaper used versions of the required text.

There are other actions that publishers and professors can take to help keep down the cost of textbooks, and that is why I am introducing the bipartisan College Textbook Affordability Act, cosponsored by Senator COLEMAN.

First, the bill requires transparency. Publishers must provide the price of a textbook in writing whenever a publisher's representative provides information on a textbook to a professor. The professor must also be provided the history of revisions for a textbook or supplemental material and whether the textbook or supplement is available in an alternative format, such as paperback, one- or two-colored editions, and loose-leaf editions. Publishers insist that access to such information is readily available to professors. If this is truly the case, then this bill will simply codify what publishers claim is already their industry's normal practice and would not be an undue burden placed on the industry.

Under the bill, textbooks and supplemental materials that are sold as a bundle must also be sold separately. The GAO report found that instructors are often unaware that the course materials they have chosen will be sold as a bundle.

The legislation also requires schools to do their part in managing textbook costs for students. Schools are required to include the international standard

book number, or ISBN number and the retail price of all required and optional materials in the course schedule for the upcoming term. This requirement would help ensure that bookstores receive book orders in time to stock up on any available used books and would provide students with plenty of time to search for lower-priced textbooks via alternative sources such as online booksellers or other students.

When asked, schools must also provide bookstores with access to the course schedule, ISBN numbers for required and optional course material, the maximum student enrollment for a course and the current enrollment numbers. Access to this information would allow bookstores to better estimate the amount of inventory they should maintain for each course. A school in my home state, Illinois State University, recognized the importance of giving students and bookstores early access to such information. ISU's online course schedule provides students with ISBN numbers, and bookstores are given access to course enrollment numbers as well as required and optional course materials.

Combined, these actions can help drive down the cost of textbooks and help make college more affordable for students. The college affordability conversation cannot focus only on raising federal grants and lowering student loan interest rates. There is no question that federal aid has not kept up with rising college costs. However, we must also look at why college costs, including textbook costs, continue to increase year after year.

I have heard stories of students, especially community college students, who decide to drop a semester or a year because they simply cannot afford the textbooks. This is just unacceptable. Textbook costs are a part, and in some cases a large part of college costs, and we must do what is within our power to ensure that students do not put their education on hold just because they cannot afford to buy the textbooks.

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

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 945

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''College Textbook Affordability Act of 2007''.

SEC. 2. PURPOSE AND INTENT.

The purpose of this Act is to ensure that every student in higher education is offered better and more timely access to affordable course materials by educating and informing faculty, students, administrators, institutions of higher education, bookstores, and publishers on all aspects of the selection, purchase, sale, and use of the course materials. It is the intent of this Act to have all involved parties work together to identify ways to decrease the cost of college textbooks and supplemental materials for students while protecting the academic freedom of faculty members to provide high quality course materials for students.

SEC. 3. DEFINITIONS.

In this Act:

(1) COLLEGE TEXTBOOK.—The term ''college textbook'' means a textbook, or a set of textbooks, used for a course in postsecondary education at an institution of higher education.

(2) COURSE SCHEDULE.—The term ''course schedule'' means a listing of the courses or classes offered by an institution of higher education for an academic period.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(4) PUBLISHER.—The term ''publisher'' means a publisher of college textbooks or supplemental materials involved in or affecting interstate commerce.

(5) SUPPLEMENTAL MATERIAL.—The term ''supplemental material'' means educational material published or produced to accompany a college textbook.

SEC. 4. PUBLISHER REQUIREMENTS.

(a) COLLEGE TEXTBOOK PRICING INFORMATION.—When a publisher provides a faculty member of an institution of higher education with information regarding a college textbook or supplemental material available in the subject area in which the faculty member teaches, the publisher shall include, with any such information and in writing, the following:

(1) The price at which the publisher would make the college textbook or supplemental material available to the bookstore on the campus of, or otherwise associated with, such institution of higher education.

(2) Any history of revisions for the college textbook or supplemental material.

(3) Whether the college textbook or supplemental material is available in any other format, including paperback and unbound, and the price at which the publisher would make the college textbook or supplemental material in the other format available to the bookstore on the campus of, or otherwise associated with, such institution of higher education.

(b) UNBUNDLING OF SUPPLEMENTAL MATERIALS.—A publisher that sells a college textbook and any supplemental material accompanying such college textbook as a single bundled item shall also sell the college textbook and each supplemental material as separate and unbundled items.

SEC. 5. PROVISION OF ISBN COLLEGE TEXTBOOK INFORMATION IN COURSE SCHEDULES.

(a) INTERNET COURSE SCHEDULES.—Each institution of higher education that receives Federal assistance and that publishes the institution's course schedule for the subsequent academic period on the Internet shall—

(1) include, in the course schedule, the International Standard Book Number (ISBN) and the retail price for each college textbook or supplemental material required or recommended for a course or class listed on the course schedule that has been assigned such a number; and

(2) update the information required under paragraph (1) as necessary.

(b) WRITTEN COURSE SCHEDULES.—In the case of an institution of higher education that receives Federal assistance and that does not publish the institution's course schedule for the subsequent academic period on the Internet, the institution of higher education shall include the information required under subsection (a)(1) in any printed version of the institution's course schedule and shall provide students with updates to such information as necessary.

SEC. 6. AVAILABILITY OF INFORMATION FOR COLLEGE TEXTBOOK SELLERS.

An institution of higher education that receives Federal assistance shall make available, as soon as is practicable, upon the request of any seller of college textbooks (other than a publisher) that meets the requirements established by the institution, the most accurate information available regarding—

(1) the institution's course schedule for the subsequent academic period; and

(2) for each course or class offered by the institution for the subsequent academic period—

(A) the International Standard Book Number (ISBN) for each college textbook or supplemental material required or recommended for such course or class that has been assigned such a number;

(B) the number of students enrolled in such course or class; and

(C) the maximum student enrollment for such course or class.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 112—DESIGNATING APRIL 6, 2007, AS ''NATIONAL MISSING PERSONS DAY''

Mr. SCHUMER (for himself and Mr. CRAPO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 112

Whereas each year tens of thousands of people go missing in the United States;

Whereas, on any given day, there are as many as 100,000 active missing persons cases in the United States;

Whereas the Missing Persons File of the National Crime Information Center (NCIC) was implemented in 1975;

Whereas, in 2005, 109,531 persons were reported missing to law enforcement agencies nationwide, of whom 11,868 were between the ages of 18 and 20;

Whereas section 204 of the PROTECT Act, known as Suzanne's Law and passed by Congress on April 10, 2003, modifies section 3701(a) of the Crime Control Act of 1990 (42 U.S.C. 5779(a)), so that agencies must enter records into the NCIC database for all missing persons under the age of 21;

Whereas Kristen's Act (42 U.S.C. 14665), passed in 1999, has established grants for organizations to, among other things, track missing persons and provide informational services to families and the public;

Whereas, according to the NCIC, 48,639 missing persons were located in 2005, an improvement of 4.2 percent from the previous year;

Whereas many persons reported missing may be victims of Alzheimer's disease or other health-related issues, or may be victims of foul play;

Whereas, regardless of age or circumstances, all missing persons have families who need support and guidance to endure the days, months, or years they may spend searching for their missing loved ones; and

Whereas it is important to applaud the committed efforts of families, law enforcement agencies, and concerned citizens who work to locate missing persons and to prevent all forms of victimization: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 6, 2007, as ''National Missing Persons Day''; and

(2) encourages the people of the United States to—

(A) observe the day with appropriate programs and activities; and

(B) support worthy initiatives and increased efforts to locate missing persons.

SENATE RESOLUTION 113—COMMENDING THE ACHIEVEMENTS AND RECOGNIZING THE IMPORTANCE OF THE ALLIANCE TO SAVE ENERGY ON THE 30TH ANNIVERSARY OF THE INCORPORATION OF THE ALLIANCE

Mr. BINGAMAN (for himself, Mr. CRAIG, Mr. PRYOR, Ms. COLLINS, and Mr. DORGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 113

Whereas the Alliance to Save Energy marks the 30th anniversary of the incorporation of the Alliance with a year-long celebration, beginning on March 18, 2007, the day on which the Alliance was incorporated as a nonprofit organization in accordance with section 501(c)(3) of the Internal Revenue Code of 1986;

Whereas, in 1977, the Alliance to Save Energy was founded by Senators Charles H. Percy and Hubert H. Humphrey;

Whereas the Alliance to Save Energy is the only national nonprofit, bipartisan public-policy organization working in partnership with prominent business, government, educational, environmental, and consumer leaders to promote the efficient and clean use of energy worldwide to benefit the environment, economy, and security of the United States;

Whereas the Alliance to Save Energy operates programs and collaborative projects throughout the United States, and has been working in the international community for more than a decade in over 30 developing and transitional countries;

Whereas the Alliance to Save Energy has shown that energy efficiency and conservation measures taken by the United States during the past 30 years are now displacing the national need for more than 40 quads of energy each year;

Whereas the Alliance to Save Energy is a nationally recognized authority on energy efficiency, and regularly provides testimony and resources to Federal and State governments, as well as members of the business and media communities;

Whereas the Alliance to Save Energy contributes to a variety of education and outreach initiatives, including the award-winning Green Schools and Green Campus programs, award-winning public service announcements, and a variety of targeted energy-efficiency campaigns;

Whereas the Alliance to Save Energy serves as the North American energy efficiency secretariat for the Renewable Energy and Energy Efficiency Partnership (commonly known as ''REEEP'');

Whereas the Alliance to Save Energy collaborates with other prominent organizations to form partnerships and create groups that advance the cause of energy efficiency, including—

(1) the Building Codes Assistance Project (commonly known as ''BCAP'');

(2) the Southeast Energy Efficiency Alliance (commonly known as ''SEEA'');

(3) the Municipal Network for Energy Efficiency (commonly known as ''MUNEE'');

(4) the Efficient Windows Collaborative; and

(5) the Appliance Standards Awareness Project (commonly known as ''ASAP''); and

Whereas March 18, 2007, marks the 30th anniversary of the incorporation of the Alliance to Save Energy: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Alliance to Save Energy on the 30th anniversary of the incorporation of the Alliance; and

(2) recognizes the important contributions that the Alliance to Save Energy has made to further the cause of energy efficiency.

AMENDMENTS SUBMITTED AND PROPOSED

SA 464. Mr. GRASSLEY (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table.

SA 465. Mr. THUNE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 466. Mr. SESSIONS (for himself, Mr. DEMINT, Mr. GRAHAM, Mr. ENZI, and Mr. CRAPO) proposed an amendment to the concurrent resolution S. Con. Res. 21, supra.

SA 467. Mr. KYL submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 468. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 469. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 470. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 471. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 472. Mr. ENSIGN (for himself, Mr. GREGG, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 473. Mr. SESSIONS (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 474. Mr. SESSIONS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 475. Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the concurrent resolution S . Con. Res. 21, supra; which was ordered to lie on the table.

SA 476. Mr. ENSIGN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 477. Mr. CORNYN (for himself, Mr. GREGG, Mr. GRAHAM, Mr. BUNNING, Mr. MCCAIN, Mr. ALLARD, Mr. CRAPO, and Mr. DEMINT) proposed an amendment to the concurrent resolution S. Con. Res. 21, supra.

SA 478. Mr. GRAHAM submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 479. Mr. SMITH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

SA 480. Ms. COLLINS (for herself, Mr. WARNER, and Mr. SMITH) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 21, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 464. Mr. GRASSLEY (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 13, line 9, decrease the amount by $22,000,000.

On page 13, line 10, decrease the amount by $22,000,000.

On page 13, line 13, decrease the amount by $117,000,000.

On page 13, line 12, decrease the amount by $117,000,000.

On page 13, line 17, decrease the amount by $116,000,000.

On page 13, line 18, decrease the amount by $116,000,000.

On page 13, line 21, decrease the amount by $115,000,000.

On page 13, line 22, decrease the amount by $115,000,000.

On page 13, line 25, decrease the amount by $116,000,000.

On page 14, line 1, decrease the amount by $116,000,000.

On page 12, line 9, increase the amount by $8,000,000.

On page 12, line 10, increase the amount by $8,000,000.

On page 12, line 13, increase the amount by $39,000,000.

On page 12, line 14, increase the amount by $39,000,000.

On page 12, line 17, increase the amount by $39,000,000.

On page 12, line 18, increase the amount by $39,000,000.

On page 12, line 21, increase the amount by $39,000,000.

On page 12, line 22, increase the amount by $39,000,000.

On page 12, line 25, increase the amount by $39,000,000.

On page 13, line 1, increase the amount by $39,000,000.

On page 16, line 10, increase the amount by $7,000,000.

On page 16, line 11, increase the amount by $7,000,000.

On page 16, line 14, increase the amount by $39,000,000.

On page 16, line 15, increase the amount by $39,000,000.

On page 16, line 18, increase the amount by $39,000,000.

On page 16, line 19, increase the amount by $39,000,000.

On page 16, line 22, increase the amount by $38,000,000.

On page 16, line 23, increase the amount by $38,000,000.

On page 17, line 2, increase the amount by $39,000,000.

On page 17, line 3, increase the amount by $39,000,000.

On page 20, line 12, increase the amount by $7,000,000.

On page 20, line 13, increase the amount by $7,000,000.

On page 20, line 16, increase the amount by $39,000,000.

On page 20, line 17, increase the amount by $39,000,000.
On page 20, line 20, increase the amount by $38,000,000.
On page 20, line 21, increase the amount by $38,000,000.
On page 20, line 24, increase the amount by $38,000,000.
On page 20, line 25, increase the amount by $38,000,000.
On page 21, line 3, increase the amount by $38,000,000.
On page 21, line 4, increase the amount by $38,000,000.

SA 465. Mr. THUNE submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

At the end of title II, insert the following:

SEC. _____. POINT OF ORDER AGAINST LEGISLATION THAT RAISES INCOME TAX RATES FOR SMALL BUSINESSES, FAMILY FARMS, OR FAMILY RANCHES.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal income tax rate increase on incomes generated by small businesses (within the meaning of section 474(c) of the Internal Revenue Code of 1986) or family farms or family ranches (within the meaning of section 2032A of such Code) (regardless of the manner by which such businesses, farms and ranches are organized). In this subsection, the term ''Federal income tax rate increase'' means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

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

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 466. Mr. SESSIONS (for himself, Mr. DEMINT, Mr. GRAHAM, Mr. ENZI, and Mr. CRAPO) proposed an amendment to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; as follows:

At the end of title II, insert the following:

SEC. ___. EXCLUSION OF TAX RELIEF FROM POINTS OF ORDER.

Sections 201, 202, 203, and 209 of this resolution and sections 302, 311(a)(2)(B), and 313 of the Congressional Budget Act of 1974 shall not apply to a bill, joint resolution, amendment, motion, or conference report that would provide for the extension of the tax relief provided in the Economic Growth and Tax Relief Reconciliation Act of 2001, the Jobs and Growth Tax Relief Reconciliation Act of 2003, and sections 101 and 102 of the Tax Increase Prevention and Reconciliation Act of 2005.

SA 467. Mr. KYL submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

Strike subsection (a) of section 308 and insert the following:

(a) PROHIBITING GOVERNMENT NEGOTIATION UNDER MEDICARE PART D AS CALLED FOR IN S. 2541 FROM THE 106TH CONGRESS, INTRODUCED BY SENATOR DASCHLE AND OTHERS.—If the Senate Committee on Finance—

(1) reports a bill, or if an amendment is offered thereto, or if a conference report is submitted thereon, that, as specified in S. 2541 from the 106th Congress, as introduced on May 10, 2000, by Senator Daschle and cosponsored by Senators Moynihan, Kennedy, Akaka, Baucus, Biden, Bingaman, Boxer, Bryan, Byrd, Cleland, Dodd, Dorgan, Durbin, Feinstein, Graham, Harkin, Hollings, Inouye, Johnson, Kerry, Lautenburg, Leahy, Levin, Lincoln, Mikulski, Murray, Reed, Reid, Robb, Rockefeller, Sarbanes, Schumer, and Wellstone, prohibits the Secretary of Health and Human Services from requiring a particular formulary or instituting a price structure for benefits under the Medicare prescription drug program under part D of title XVIII of the Social Security Act, interfering in any way with negotiations between private entities and drug manufacturers, or wholesalers, or otherwise interfering with the competitive nature of providing a prescription drug benefit through private entities to Medicare beneficiaries; and

(2) is within its allocation as provided under section 302(a) of the Congressional Budget Act of 1974,

the Chairman of the Senate Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, and other appropriate measures to reflect such legislation provided that such legislation would not increase the deficit for fiscal year 2008, and for the period of fiscal years 2008 through 2012.

SA 468. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

At the appropriate place insert:

SEC. _____. POINT OF ORDER AGAINST BUDGET RESOLUTION THAT DECREASES THE 2012 UNIFIED SURPLUS.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any concurrent resolution on the budget, or any amendment thereto or conference report thereon, that would set forth a unified deficit level greater than $131.916 billion in fiscal year 2012.

(b)(1) WAIVER AND APPEAL.—Subsection (a) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

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

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

SA 469. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

At the end of title III, insert the following:

SEC. ___. RESERVE FUND FOR BIPARTISAN ENTITLEMENT REFORM.

(a) IN GENERAL.—If Congress enacts a bill or joint resolution that reduces direct spending by at least $5,000,000,000 for the period of fiscal years 2008 through 2012 by—

(1) reforming entitlement programs to make them fiscally sustainable; and

(2) strengthening the safety net functions of entitlement programs;

the Chairman of the Committee on the Budget of the Senate shall make the appropriate adjustments in allocations and aggregates to ensure that such savings reduce the deficit or increase the surplus.

(b) PAY-AS-YOU-GO.—For purposes of section 201(a)(6), any bill or joint resolution meeting the requirements of subsection (a) shall be considered to be a bill pursuant to a reconciliation instruction.

SA 470. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

At the end of title II, insert the following:

SEC. ___. DISCLOSURE OF INTEREST COSTS.

(a) POINT OF ORDER.—It shall not be in order in the Senate to consider any bill or joint resolution, or conference report thereon, that is required to contain the statement described in section 308(a) of the Congressional Budget Act of 1974, unless such statement contains a projection by the Congressional Budget Office of the cost of the debt servicing that would be caused by such bill, joint resolution, or conference report for such fiscal year (or fiscal years) and each of the 4 ensuing fiscal years.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

SA 471. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the concurrent resolution S.

Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 3 line 10, decrease the amount by $30,700,000,000.
On page 3, line 11, decrease the amount by $82,500,000,000.
On page 3, line 12, decrease the amount by $96,300,000,000.
On page 3, line 13, decrease the amount by $112,200,000,000.
On page 3, line 14, decrease the amount by $93,900,000,000.
On page 3, line 15, decrease the amount by $51,400,000,000.
On page 3, line 19, decrease the amount by $30,700,000,000.
On page 3 line 20, decrease the amount by $82,500,000,000.
On page 3, line 21, decrease the amount by $96,300,000,000.
On page 3, line 22, decrease the amount by $112,200,000,000.
On page 3, line 23, decrease the amount by $93,900,000,000.
On page 4, line 1, decrease the amount by $51,400,000,000.
On page 4, line 5, increase the amount by $500,000,000.
On page 4, line 6, increase the amount by $3,450,000,000.
On page 4, line 7, increase the amount by $7,727,000,000.
On page 4, line 8, increase the amount by $12,984,000,000.
On page 4, line 9, increase the amount by$18,436,000,000.
On page 4, line 10, increase the amount by $22,732,000,000.
On page 4, line 14, increase the amount by $500,000,000.
On page 4, line 15, increase the amount by $3,450,000,000.
On page 4, line 16, increase the amount by $7,727,000,000.
On page 4, line 17, increase the amount by $12,984,000,000.
On page 4, line 18, increase the amount by $18,436,000,000.
On page 4, line 19, increase the amount by $22,732,000,000.
On page 4, line 23, increase the amount by $31,200,000,000.
On page 4, line 24, increase the amount by $85,950,000,000.
On page 4, line 25, increase the amount by $104,027,000,000.
On page 5, line 1, increase the amount by $125,184,000,000.
On page 5, line 2, increase the amount by $112,336,000,000.
On page 5, line 3, increase the amount by $74,132,000,000.
On page 5, line 6, increase the amount by $31,200,000,000.
On page 5, line 7, increase the amount by $117,151,000,000.
On page 5, line 8, increase the amount by $221,178,000,000.
On page 5, line 9, increase the amount by $346,362,000,000.
On page 5, line 10, increase the amount by $458,698,000,000.
On page 5, line 11, increase the amount by $532,830,000,000.
On page 5, line 14, increase the amount by $31,200,000,000.
On page 5, line 15, increase the amount by $117,151,000,000.
On page 5, line 16, decrease the amount by $221,178,000,000.
On page 5, line 17, increase the amount by $346,362,000,000.
On page 5, line 18, increase the amount by $458,698,000,000.
On page 5, line 19, increase the amount by $532,830,000,000.
On page 25, line 8, increase the amount by $500,000,000.
On page 25, line 9, increase the amount by $500,000,000.
On page 25, line 12, increase the amount by $3,450,000,000.
On page 25, line 13, increase the amount by $3,450,000,000.
On page 25, line 16, increase the amount by $7,727,000,000.
On page 25, line 17, increase the amount by $7,727,000,000.
On page 25, line 20, increase the amount by $12,984,000,000.
On page 25, line 21, increase the amount by $12,984,000,000.
On page 25, line 24, increase the amount by $18,436,000,000.
On page 25, line 25, increase the amount by $18,436,000,000.
On page 26, line 3, increase the amount by $22,732,000,000.
On page 26, line 4, increase the amount by $22,732,000,000.

SA 472. Mr. ENSIGN (for himself, Mr. GREGG, and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 4, line 6, decrease the amount by $102,000,000.
On page 4, line 7, decrease the amount by $312,000,000.
On page 4, line 8, decrease the amount by $633,000,000.
On page 4, line 9, decrease the amount by $868,000,000.
On page 4, line 10, decrease the amount by $1,113,000,000.
On page 4, line 15, decrease the amount by $102,000,000.
On page 4, line 16, decrease the amount by $312,000,000.
On page 4, line 17, decrease the amount by $633,000,000.
On page 4, line 18, decrease the amount by $868,000,000.
On page 4, line 19, decrease the amount by $1,113,000,000.
On page 4, line 24, decrease the amount by $102,000,000.
On page 4, line 25, decrease the amount by $312,000,000.
On page 5, line 1, decrease the amount by $633,000,000.
On page 5, line 2, decrease the amount by $868,000,000.
On page 5, line 3, decrease the amount by $1,113,000,000.
On page 5, line 7, decrease the amount by $102,000,000.
On page 5, line 8, decrease the amount by $414,000,000.
On page 5, line 9, decrease the amount by $1,048,000,000.
On page 5, line 10, decrease the amount by $1,916,000,000.
On page 5, line 11, decrease the amount by $3,029,000,000.
On page 5, line 15, decrease the amount by $102,000,000.
On page 5, line 16, decrease the amount by $414,000,000.
On page 5, line 17, decrease the amount by $1,048,000,000.
On page 5, line 18, decrease the amount by $1,916,000,000.
On page 5, line 19, decrease the amount by $3,029,000,000.
On page 19, line 12, decrease the amount by $100,000,000.
On page 19, line 13, decrease the amount by $100,000,000.
On page 19, line 16, decrease the amount by $300,000,000.
On page 19, line 17, decrease the amount by $300,000,000.
On page 19, line 20, decrease the amount by $600,000,000.
On page 19, line 21, decrease the amount by $600,000,000.
On page 19, line 24, decrease the amount by $800,000,000.
On page 19, line 25, decrease the amount by $800,000,000.
On page 20, line 3, decrease the amount by $1,000,000,000.
On page 20, line 4, decrease the amount by $1,000,000,000.
On page 25, line 12, decrease the amount by $2,000,000.
On page 25, line 13, decrease the amount by $2,000,000.
On page 25, line 16, decrease the amount by $12,000,000.
On page 25, line 17, decrease the amount by $12,000,000.
On page 25, line 20, decrease the amount by $33,000,000.
On page 25, line 21, decrease the amount by $33,000,000.
On page 25, line 24, decrease the amount by $68,000,000.
On page 25, line 25, decrease the amount by $68,000,000.
On page 26, line 3, decrease the amount by $113,000,000.
On page 26, line 4, decrease the amount by $113,000,000.

SA 473. Mr. SESSIONS (for himself and Mr. DEMINT) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 3, line 10, decrease the amount by $6,494,000,000.
On page 3, line 11, increase the amount by $2,594,000,000.
On page 3, line 12, increase the amount by $9,100,000,000.
On page 3, line 13, decrease the amount by $59,600,000,000.
On page 3, line 14, decrease the amount by $51,000,000,000.
On page 3, line 15, decrease the amount by $31,100,000,000.
On page 3, line 19, decrease the amount by $6,494,000,000.
On page 3, line 20, increase the amount by $2,594,000,000.
On page 3, line 21, increase the amount by $9,100,000,000.
On page 3, line 22, decrease the amount by $59,600,000,000.
On page 3, line 23, decrease the amount by $51,000,000,000.
On page 4, line 1, decrease the amount by $31,000,000,000.
On page 4, line 5, increase the amount by $106,000,000.
On page 4, line 6, increase the amount by $255,000,000.
On page 4, line 7, decrease the amount by $12,000,000.

On page 4, line 8, increase the amount by $1,174,000,000.
On page 4, line 9, increase the amount by $3,822,000,000.
On page 4, line 10, increase the amount by $5,934,000,000.
On page 4, line 14, increase the amount by $106,000,000.
On page 4, line 15, increase the amount by $255,000,000.
On page 4, line 16, decrease the amount by $12,000,000.
On page 4, line 17, increase the amount by $1,174,000,000.
On page 4, line 18, increase the amount by $3,822,000,000.
On page 4, line 19, increase the amount by $5,934,000,000.
On page 4, line 23, increase the amount by $6,600,000,000.
On page 4, line 24, decrease the amount by $2,339,000,000.
On page 4, line 25, decrease the amount by $9,112,000,000.
On page 5, line 1, increase the amount by $60,774,000,000.
On page 5, line 2, increase the amount by $54,822,000,000.
On page 5, line 3, increase the amount by $37,034,000,000.
On page 5, line 6, increase the amount by $6,600,000,000.
On page 5, line 7, increase the amount by $4,261,000,000.
On page 5, line 8, decrease the amount by $4,852,000,000.
On page 5, line 9, increase the amount by $55,923,000,000.
On page 5, line 10, increase the amount by $110,745,000,000.
On page 5, line 11, increase the amount by $147,779,000,000.
On page 5, line 14, increase the amount by $6,600,000,000.
On page 5, line 15, increase the amount by $4,261,000,000.
On page 5, line 16, decrease the amount by $4,852,000,000.
On page 5, line 17, increase the amount by $55,923,000,000.
On page 5, line 18, increase the amount by $110,754,000,000.
On page 5, line 19, increase the amount by $147,779,000,000.
On page 25, line 8, increase the amount by $106,000,000.
On page 25, line 9, increase the amount by $106,000,000.
On page 25, line 12, increase the amount by $255,000,000.
On page 25, line 13, increase the amount by $255,000,000.
On page 25, line 16, decrease the amount by $12,000,000.
On page 25, line 17, decrease the amount by $12,000,000.
On page 25, line 20, increase the amount by $1,174,000,000.
On page 25, line 21, increase the amount by $1,174,000,000.
On page 25, line 24, increase the amount by $3,822,000,000.
On page 25, line 25, increase the amount by $3,822,000,000.
On page 26, line 3, increase the amount by $5,934,000,000.
On page 26, line 4, increase the amount by $5,934,000,000.

SA 474. Mr. SESSIONS submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting for the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. ___. DEFICIT-NEUTRAL RESERVE FUND FOR CHILDREN'S SAVINGS ACCOUNTS AT BIRTH FOR LOW INCOME FAMILIES.

If the Senate Committee on Finance—

(1) reports a bill or joint resolution, or an amendment thereto is offered or a conference report thereon is submitted, that creates children's savings accounts at birth for low income families; and

(2) is within the committee's allocation as provided under section 302(a) of the Congressional Budget Act of 1974;

the chairman of the Committee on the Budget may revise allocations of new budget authority and outlays, the revenue aggregates, and other appropriate aggregates to reflect such legislation, to the extent that such legislation would not increase the deficit for fiscal year 2008 and for the period of fiscal years 2008 through 2012.

SA 475. Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 3, line 13, decrease the amount by $800,000,000.
On page 3, line 14, decrease the amount by $23,800,000,000.
On page 3, line 15, decrease the amount by $50,200,000,000.
On page 3, line 22, decrease the amount by $800,000,000.
On page 3, line 23, decrease the amount by $23,800,000,000.
On page 4, line 1, decrease the amount by $50,200,000,000.
On page 4, line 8, increase the amount by $19,000,000.
On page 4, line 9, increase the amount by $598,000,000.
On page 4, line 10, increase the amount by $2,365,000,000.
On page 4, line 17, increase the amount by $19,000,000.
On page 4, line 18, increase the amount by $598,000,000.
On page 4, line 19, increase the amount by $2,365,000,000.
On page 5, line 1, increase the amount by $819,000,000.
On page 5, line 2, increase the amount by $24,398,000,000.
On page 5, line 3, increase the amount by $52,565,000,000.
On page 5, line 9, increase the amount by $819,000,000.
On page 5, line 10, increase the amount by $25,217,000,000.
On page 5, line 11, increase the amount by $77,781,000,000.
On page 5, line 17, increase the amount by $819,000,000.
On page 5, line 18, increase the amount by $25,217,000,000.
On page 5, line 19, increase the amount by $77,781,000,000.
On page 25, line 20, increase the amount by $19,000,000.
On page 25, line 21, increase the amount by $19,000,000.
On page 25, line 24, increase the amount by $598,000,000.
On page 25, line 25, increase the amount by $598,000,000.
On page 26, line 3, increase the amount by $2,365,000,000.
On page 26, line 4, increase the amount by $2,365,000,000.

SA 476. Mr. ENSIGN submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 41, strike lines 9 through 11 and insert the following:

(2) for fiscal year 2008,

(A) for the national defense (050) function, $498,844,000,000 in new budget authority and $507,394,000,000 in outlays; and

(B) for all other functions, $443,468,000,000 in new budget authority and $514,013,000,000 in outlays.

SA 477. Mr. CORNYN (for himself, Mr. GREGG, Mr. GRAHAM, Mr. BUNNING, Mr. MCCAIN, Mr. ALLARD, Mr. CRAPO, and Mr. DEMINT) proposed an amendment to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; as follows:

At the end of title II, insert the following:

SEC. _____. POINT OF ORDER AGAINST LEGISLATION THAT RAISES INCOME TAX RATES.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal income tax rate increase. In this subsection, the term ''Federal income tax rate increase'' means any amendment to subsection (a), (b), (c), (d), or (e) of section 1, or to section 11(b) or 55(b), of the Internal Revenue Code of 1986, that imposes a new percentage as a rate of tax and thereby increases the amount of tax imposed by any such section.

(b) SUPERMAJORITY WAIVER AND APPEAL.—

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

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SA 478. Mr. GRAHAM submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 3, line 14, decrease the amount by $46,000,000,000.
On page 3, line 15, decrease the amount by $66,900,000,000.
On page 3, line 23, decrease the amount by $46,000,000,000.
On page 4, line 1, decrease the amount by $66,900,000,000.

On page 4, line 9, increase the amount by $1,081,000,000.
On page 4, line 10, increase the amount by $3,785,000,000.
On page 4, line 18, increase the amount by $1,081,000,000.
On page 4, line 19, increase the amount by $3,785,000,000.
On page 5, line 2, increase the amount by $47,081,000,000.
On page 5, line 3, increase the amount by $70,685,000,000.
On page 5, line 10, increase the amount by $47,081,000,000.
On page 5, line 11, increase the amount by $117,766,000,000.
On page 5, line 18, increase the amount by $47,081,000,000.
On page 5, line 19, increase the amount by $117,766,000,000.
On page 25, line 24, increase the amount by $1,081,000,000.
On page 25, line 25, increase the amount by $1,081,000,000.
On page 26, line 3, increase the amount by $3,785,000,000.
On page 26, line 4, increase the amount by $3,785,000,000.

SA 479. Mr. SMITH submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

On page 3, line 14, decrease the amount by $964,000,000.
On page 3, line 15, decrease the amount by $2,199,000,000.
On page 3, line 23, decrease the amount by $964,000,000.
On page 4, line 1, decrease the amount by $2,199,000,000.
On page 4, line 9, increase the amount by $23,000,000.
On page 4, line 10, increase the amount by $98,000,000.
On page 4, line 18, increase the amount by $23,000,000.
On page 4, line 19, increase the amount by $98,000,000.
On page 5, line 2, increase the amount by $987,000,000.
On page 5, line 3, increase the amount by $2,297,000,000.
On page 5, line 10, increase the amount by $987,000,000.
On page 5, line 11, increase the amount by $3,284,000,000.
On page 5, line 18, increase the amount by $987,000,000.
On page 5, line 19, increase the amount by $3,284,000,000.
On page 25, line 24, increase the amount by $23,000,000.
On page 25, line 25, increase the amount by $23,000,000.
On page 26, line 3, increase the amount by $98,000,000.
On page 26, line 4, increase the amount by $98,000,000.

SA 480. Ms. COLLINS (for herself, Mr. WARNER, and Mr. SMITH) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 21, setting forth the congressional budget for the United States Government for fiscal year 2008 and including the appropriate budgetary levels for fiscal years 2007 and 2009 through 2012; which was ordered to lie on the table; as follows:

At the end of title III, add the following:

SEC. _____. DEFICIT-NEUTRAL RESERVE FUND FOR EXPANSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM SUPPLIES.

The Chairman of the Senate Committee on the Budget may revise the allocations, aggregates, and other levels in this resolution by the amounts provided by a bill, joint resolution, amendment, motion, or conference report that would permanently extend and increase to $400 the above-the-line deduction for teacher classroom supplies and expand such deduction to include qualified professional development expenses, provided that such legislation would not increase the deficit over the total of the period of fiscal years 2007 through 2012.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, March 20, 2007, at 9:30 a.m., in open session to receive testimony on the Air Force in review of the defense authorization request for fiscal year 2008 and the future years defense program.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Tuesday, March 20, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building. The purpose of this hearing is to promote travel to America, and to examine economic and security concerns.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Tuesday, March 20, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building. The purpose of this hearing is to discuss innovation in energy technology.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Tuesday, March 20, 2007, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building. The purpose of the hearing is to consider the nomination of Stephen Jeffrey Isakowitz, of Virginia, to be Chief Financial Officer of the Department of Energy.

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

COMMITTEE ON FINANCE

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Tuesday, March 20, 2007, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Realizing a Competitive Education: Identifying Needs, Partnerships and Resources.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 20, 2007, at 10 a.m. to hold a hearing on Chad.

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

COMMITTEE ON THE JUDICIARY

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Combating War Profiteering: Are We Doing Enough to Investigate and Prosecute Contracting Fraud and Abuse in Iraq?'' on Tuesday, March 20, 2007 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Witness List

The Honorable Stuart W. Bowen, Jr., Special Inspector General for Iraq Reconstruction, Arlington, VA; Thomas F. Gimble, Acting Inspector General, U.S. Department of Defense, Arlington, VA; Barry Sabin, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, DC.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Tuesday, March 20, 2007, at 2:30 p.m., for a hearing entitled ''Medicare Doctors Who Cheat on Their Taxes and What Should Be Done About It.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 20, 2007 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Competition Policy and Consumer Rights be authorized to meet on Tuesday, March 20, 2006, at 2:15 p.m., to conduct a hearing on ''The OX-Sirius Merger: Monopoly or Competition from New Technologies'' in room 226 of the Dirksen Senate Office Building.

Witness List: Mel Karmazin, Chief Executive Officer, Sirius Satellite Radio, New York, NY; Mary Quass, President and CEO, NRG Media, LLC, Cedar Rapids, IA; David Balto, Attorney at Law, Law Office of David Balto, Washington, DC; and Gigi B. Sohn, President, Public Knowledge, Washington, DC.

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

SUBCOMMITTEE ON NATIONAL PARKS

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to hold a hearing during the session of the Senate on Tuesday, March 20, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 126, to modify the boundary of Mesa Verde National Park, and for other purposes; S. 257, to direct the Secretary of the Interior to conduct a study to determine the feasibility of establishing the Columbia-Pacific National Heritage Area in the States of Washington and Oregon, and for other purposes; S. 289, to establish the Journey Through Hallowed Ground National Heritage Area, and for other purposes; S. 443, to establish the Sangre de Cristo National Heritage Area in the State of Colorado, and for other purposes; S. 444, to establish the South Park National Heritage Area in the State of Colorado, and for other purposes; S. 500 and H.R. 512, to establish the Commission to Study the Potential Creation of the National Museum of the American Latino, to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino in Washington, DC, and for other purposes; S. 637, to direct the Secretary of the Interior to study the suitability and feasibility of establishing the Chattahoochee Trace National Heritage Corridor in Alabama and Georgia, and for other purposes; S. 817, to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide additional authorizations for certain National Heritage Areas, and for other purposes; and S. Con. Res. 6, Expressing the sense of Congress that the National Museum of Wildlife Art, located in Jackson, Wyoming, should be designated as the ''National Museum of Wildlife Art of the United States.''

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

SUBCOMMITTEE ON RETIREMENT AND AGING

Mr. SALAZAR. Mr. President, I ask unanimous consent that the Subcommittee on Retirement and Aging be authorized to hold a hearing on Alzheimer's research during the session of the Senate on Tuesday, March 20, 2007 at 10 a.m. in SH–216.

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

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, on behalf of Senator GRASSLEY, I ask unanimous consent that Anne Freeman and Lynda Simmons of the Finance Committee staff be given privileges of the floor from March 19 through March 25.

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

Mr. LEAHY. Mr. President, I ask unanimous consent that during consideration of the budget resolution and any votes thereon that Susan Reeves, a congressional fellow with the Budget Committee, and Seema Mittal, a Budget Committee intern, be granted floor privileges.

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

IMPROVING AMERICA'S SECURITY ACT OF 2007

On Tuesday, March 13, 2007, the Senate passed S. 4, as amended, as follows:

S. 4

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improving America's Security Act of 2007''.

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—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—IMPROVING INTELLIGENCE AND INFORMATION SHARING WITHIN THE FEDERAL GOVERNMENT AND WITH STATE, LOCAL, AND TRIBAL GOVERNMENTS

Subtitle A—Homeland Security Information Sharing Enhancement

SEC. 111. HOMELAND SECURITY ADVISORY SYSTEM AND INFORMATION SHARING.

(a) ADVISORY SYSTEM AND INFORMATION SHARING.—

(1) 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. 203. HOMELAND SECURITY ADVISORY SYSTEM.

''(a) REQUIREMENT.—The Secretary shall administer the Homeland Security Advisory System in accordance with this section to provide warnings regarding the risk of terrorist attacks on the homeland to Federal, State, local, and tribal government authorities and to the people of the United States, as appropriate. The Secretary shall exercise primary responsibility for providing such warnings.

''(b) REQUIRED ELEMENTS.—In administering the Homeland Security Advisory System, the Secretary shall—

''(1) establish criteria for the issuance and revocation of such warnings;

''(2) develop a methodology, relying on the criteria established under paragraph (1), for the issuance and revocation of such warnings;

''(3) provide, in each such warning, specific information and advice regarding appropriate protective measures and countermeasures that may be taken in response to that risk, at the maximum level of detail practicable to enable individuals, government entities, emergency response providers, and the private sector to act appropriately; and

''(4) whenever possible, limit the scope of each such warning to a specific region, locality, or economic sector believed to be at risk.

"SEC. 204. HOMELAND SECURITY INFORMATION SHARING.

''(a) INFORMATION SHARING.—Consistent with section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary shall integrate and standardize the information of the intelligence components of the Department, except for any internal protocols of such intelligence components, to be administered by the Chief Intelligence Officer.

''(b) INFORMATION SHARING AND KNOWLEDGE MANAGEMENT OFFICERS.—For each intelligence component of the Department, the Secretary shall designate an information sharing and knowledge management officer who shall report to the Chief Intelligence Officer regarding coordinating the different systems used in the Department to gather and disseminate homeland security information.

''(c) STATE, LOCAL, AND PRIVATE-SECTOR SOURCES OF INFORMATION.—

''(1) ESTABLISHMENT OF BUSINESS PROCESSES.—The Chief Intelligence Officer shall—

''(A) establish Department-wide procedures for the review and analysis of information gathered from sources in State, local, and tribal government and the private sector;

''(B) as appropriate, integrate such information into the information gathered by the Department and other departments and agencies of the Federal Government; and

''(C) make available such information, as appropriate, within the Department and to other departments and agencies of the Federal Government.

''(2) FEEDBACK.—The Secretary shall develop mechanisms to provide feedback regarding the analysis and utility of information provided by any entity of State, local, or tribal government or the private sector that gathers information and provides such information to the Department.

''(d) TRAINING AND EVALUATION OF EMPLOYEES.—

''(1) TRAINING.—The Chief Intelligence Officer shall provide to employees of the Department opportunities for training and education to develop an understanding of—

''(A) the definition of homeland security information; and

''(B) how information available to such employees as part of their duties—

''(i) might qualify as homeland security information; and

''(ii) might be relevant to the intelligence components of the Department.

''(2) EVALUATIONS.—The Chief Intelligence Officer shall—

''(A) on an ongoing basis, evaluate how employees of the Office of Intelligence and Analysis and the intelligence components of the Department are utilizing homeland security information, sharing information within the Department, as described in this subtitle, and participating in the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

''(B) provide a report regarding any evaluation under subparagraph (A) to the appropriate component heads.

"SEC. 205. COORDINATION WITH INFORMATION SHARING ENVIRONMENT.

''All activities to comply with sections 203 and 204 shall be—

''(1) implemented in coordination with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

''(2) consistent with and support the establishment of that environment, and any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager for the implementation and management of that environment.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) IN GENERAL.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(i) by striking paragraph (7); and

(ii) by redesignating paragraphs (8) through (19) as paragraphs (7) through (18), respectively.

(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 202 the following:

''Sec. 203. Homeland Security Advisory System.
''Sec. 204. Homeland Security Information Sharing.
''Sec. 205. Coordination with information sharing environment.''.

(b) INTELLIGENCE COMPONENT DEFINED.—

(1) IN GENERAL.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended—

(A) by redesignating paragraphs (9) through (16) as paragraphs (10) through (17), respectively; and

(B) by inserting after paragraph (8) the following:

''(9) The term 'intelligence component of the Department' means any directorate, agency, or other element or entity of the Department that gathers, receives, analyzes, produces, or disseminates homeland security information.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) HOMELAND SECURITY ACT OF 2002.—Section 501(11) of the Homeland Security Act of 2002 (6 U.S.C. 311(11)) is amended by striking ''section 2(10)(B)'' and inserting ''section 2(11)(B)''.

(B) OTHER LAW.—Section 712(a) of title 14, United States Code, is amended by striking ''section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))'' and inserting ''section 2(16) of the Homeland Security Act of 2002 (6 U.S.C. 101(16))''.

(c) RESPONSIBILITIES OF THE UNDER SECRETARY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—Section 201(d) of the Homeland Security Act of 2002 (6 U.S.C. 121(d)) is amended—

(1) in paragraph (1), by inserting '', in support of the mission responsibilities of the Department and consistent with the functions of the National Counterterrorism Center established under section 119 of the National Security Act of 1947 (50 U.S.C. 50 U.S.C. 404o),'' after ''and to integrate such information''; and

(2) by striking paragraph (7), as redesignated by subsection (a)(2)(A) of this section, and inserting the following:

''(7) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and among the Federal Government and State, local, and tribal government agencies and authorities, consistent with the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and any policies, guidelines, procedures, instructions or standards established by the President or, as appropriate, the program manager for the implementation and management of that environment.''.

SEC. 112. INFORMATION SHARING.

Section 1016 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following:

''(1) HOMELAND SECURITY INFORMATION.—The term 'homeland security information' has the meaning given that term in section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482).'';

(C) in paragraph (5), as so redesignated—

(i) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the margin accordingly;

(ii) by striking '' 'terrorism information' means'' and inserting the following: '' 'terrorism information'—

''(A) means'';

(iii) in subparagraph (A)(iv), as so redesignated, by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(B) includes homeland security information and weapons of mass destruction information.''; and

(D) by adding at the end the following:

''(6) WEAPONS OF MASS DESTRUCTION INFORMATION.—The term 'weapons of mass destruction information' means information that could reasonably be expected to assist in the development, proliferation, or use of a weapon of mass destruction (including chemical, biological, radiological, and nuclear weapons) that could be used by a terrorist or a

terrorist organization against the United States, including information about the location of any stockpile of nuclear materials that could be exploited for use in such a weapon that could be used by a terrorist or a terrorist organization against the United States.'';

(2) in subsection (b)(2)—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(J) integrates the information within the scope of the information sharing environment, including any such information in legacy technologies;

''(K) integrates technologies, including all legacy technologies, through Internet-based services;

''(L) allows the full range of analytic and operational activities without the need to centralize information within the scope of the information sharing environment;

''(M) permits analysts to collaborate both independently and in a group (commonly known as 'collective and noncollective collaboration'), and across multiple levels of national security information and controlled unclassified information;

''(N) provides a resolution process that enables changes by authorized officials regarding rules and policies for the access, use, and retention of information within the scope of the information sharing environment; and

''(O) incorporates continuous, real-time, and immutable audit capabilities, to the maximum extent practicable.'';

(3) in subsection (f)—

(A) in paragraph (1)—

(i) by striking ''during the two-year period beginning on the date of designation under this paragraph unless sooner'' and inserting ''until''; and

(ii) by striking ''The program manager shall have and exercise governmentwide authority.'' and inserting ''Except as otherwise expressly provided by law, the program manager, in consultation with the head of any affected department or agency, shall have and exercise governmentwide authority over the sharing of information within the scope of the information sharing environment by all Federal departments, agencies, and components, irrespective of the Federal department, agency, or component in which the program manager may be administratively located.''; and

(B) in paragraph (2)(A)—

(i) by redesignating clause (iii) as clause (v); and

(ii) by striking clause (ii) and inserting the following:

''(ii) assist in the development of policies, as appropriate, to foster the development and proper operation of the ISE;

''(iii) issue governmentwide procedures, guidelines, instructions, and functional standards, as appropriate, for the management, development, and proper operation of the ISE;

''(iv) identify and resolve information sharing disputes between Federal departments, agencies, and components; and'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''during the two-year period beginning on the date of the initial designation of the program manager by the President under subsection (f)(1), unless sooner'' and inserting ''until'';

(B) in paragraph (2)—

(i) in subparagraph (F), by striking ''and'' at the end;

(ii) by redesignating subparagraph (G) as subparagraph (I); and

(iii) by inserting after subparagraph (F) the following:

''(G) assist the program manager in identifying and resolving information sharing disputes between Federal departments, agencies, and components;

''(H) identify appropriate personnel for assignment to the program manager to support staffing needs identified by the program manager; and'';

(C) in paragraph (4), by inserting ''(including any subsidiary group of the Information Sharing Council)'' before ''shall not be subject''; and

(D) by adding at the end the following:

''(5) DETAILEES.—Upon a request by the Director of National Intelligence, the departments and agencies represented on the Information Sharing Council shall detail to the program manager, on a reimbursable basis, appropriate personnel identified under paragraph (2)(H).'';

(5) in subsection (h)(1), by striking ''and annually thereafter'' and inserting ''and not later than June 30 of each year thereafter''; and

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

''(j) REPORT ON THE INFORMATION SHARING ENVIRONMENT.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Improving America's Security Act of 2007, the President shall report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Homeland Security of the House of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives on the feasibility of—

''(A) eliminating the use of any marking or process (including 'Originator Control') intended to, or having the effect of, restricting the sharing of information within the scope of the information sharing environment between and among participants in the information sharing environment, unless the President has—

''(i) specifically exempted categories of information from such elimination; and

''(ii) reported that exemption to the committees of Congress described in the matter preceding this subparagraph; and

''(B) continuing to use Federal agency standards in effect on such date of enactment for the collection, sharing, and access to information within the scope of the information sharing environment relating to citizens and lawful permanent residents;

''(C) replacing the standards described in subparagraph (B) with a standard that would allow mission-based or threat-based permission to access or share information within the scope of the information sharing environment for a particular purpose that the Federal Government, through an appropriate process, has determined to be lawfully permissible for a particular agency, component, or employee (commonly known as an 'authorized use' standard); and

''(D) the use of anonymized data by Federal departments, agencies, or components collecting, possessing, disseminating, or handling information within the scope of the information sharing environment, in any cases in which—

''(i) the use of such information is reasonably expected to produce results materially equivalent to the use of information that is transferred or stored in a non-anonymized form; and

''(ii) such use is consistent with any mission of that department, agency, or component (including any mission under a Federal statute or directive of the President) that involves the storage, retention, sharing, or exchange of personally identifiable information.

''(2) DEFINITION.—In this subsection, the term 'anonymized data' means data in which the individual to whom the data pertains is not identifiable with reasonable efforts, including information that has been encrypted or hidden through the use of other technology.

''(k) ADDITIONAL POSITIONS.—The program manager is authorized to hire not more than 40 full-time employees to assist the program manager in—

''(1) identifying and resolving information sharing disputes between Federal departments, agencies, and components under subsection (f)(2)(A)(iv); and

''(2) other activities associated with the implementation of the information sharing environment, including—

''(A) implementing the requirements under subsection (b)(2); and

''(B) any additional implementation initiatives to enhance and expedite the creation of the information sharing environment.

''(l) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2008 and 2009.''.

SEC. 113. INTELLIGENCE TRAINING DEVELOPMENT FOR STATE AND LOCAL GOVERNMENT OFFICIALS.

(a) CURRICULUM.—The Secretary, acting through the Chief Intelligence Officer, shall—

(1) develop curriculum for the training of State, local, and tribal government officials relating to the handling, review, and development of intelligence material; and

(2) ensure that the curriculum includes executive level training.

(b) TRAINING.—To the extent possible, the Federal Law Enforcement Training Center and other existing Federal entities with the capacity and expertise to train State, local, and tribal government officials based on the curriculum developed under subsection (a) shall be used to carry out the training programs created under this section. If such entities do not have the capacity, resources, or capabilities to conduct such training, the Secretary may approve another entity to conduct the training.

(c) CONSULTATION.—In carrying out the duties described in subsection (a), the Chief Intelligence Officer shall consult with the Director of the Federal Law Enforcement Training Center, the Attorney General, the Director of National Intelligence, the Administrator of the Federal Emergency Management Agency, and other appropriate parties, such as private industry, institutions of higher education, nonprofit institutions, and other intelligence agencies of the Federal Government.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 114. INFORMATION SHARING INCENTIVES.

(a) AWARDS.—In making cash awards under chapter 45 of title 5, United States Code, the President or the head of an agency, in consultation with the program manager designated under section 1016 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485), may consider the success of an employee in sharing information within the scope of the information sharing environment established under that section in a manner consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of that environment for the implementation and management of that environment.

(b) OTHER INCENTIVES.—The head of each department or agency described in section 1016(i) of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485(i)),

in consultation with the program manager designated under section 1016 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485), shall adopt best practices regarding effective ways to educate and motivate officers and employees of the Federal Government to engage in the information sharing environment, including—

(1) promotions and other nonmonetary awards; and

(2) publicizing information sharing accomplishments by individual employees and, where appropriate, the tangible end benefits that resulted.

Subtitle B—Homeland Security Information Sharing Partnerships

SEC. 121. STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.

(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 this Act, is amended by adding at the end the following:

''SEC. 206. STATE, LOCAL, AND REGIONAL FUSION CENTER INITIATIVE.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Chief Intelligence Officer' means the Chief Intelligence Officer of the Department;

''(2) the term 'fusion center' means a collaborative effort of 2 or more Federal, State, local, or tribal government agencies that combines resources, expertise, or information with the goal of maximizing the ability of such agencies to detect, prevent, investigate, apprehend, and respond to criminal or terrorist activity;

''(3) the term 'information sharing environment' means the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485);

''(4) the term 'intelligence analyst' means an individual who regularly advises, administers, supervises, or performs work in the collection, analysis, evaluation, reporting, production, or dissemination of information on political, economic, social, cultural, physical, geographical, scientific, or military conditions, trends, or forces in foreign or domestic areas that directly or indirectly affect national security;

''(5) the term 'intelligence-led policing' means the collection and analysis of information to produce an intelligence end product designed to inform law enforcement decision making at the tactical and strategic levels; and

''(6) the term 'terrorism information' has the meaning given that term in section 1016 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485).

''(b) ESTABLISHMENT.—The Secretary, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485), the Attorney General, the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorist Prevention Act of 2004 (5 U.S.C. 601 note), shall establish a State, Local, and Regional Fusion Center Initiative to establish partnerships with State, local, and regional fusion centers.

''(c) DEPARTMENT SUPPORT AND COORDINATION.—Through the State, Local, and Regional Fusion Center Initiative, the Secretary shall—

''(1) coordinate with the principal officer of each State, local, or regional fusion center and the officer designated as the Homeland Security Advisor of the State;

''(2) provide operational and intelligence advice and assistance to State, local, and regional fusion centers;

''(3) support efforts to include State, local, and regional fusion centers into efforts to establish an information sharing environment;

''(4) conduct exercises, including live training exercises, to regularly assess the capability of individual and regional networks of State, local, and regional fusion centers to integrate the efforts of such networks with the efforts of the Department;

''(5) coordinate with other relevant Federal entities engaged in homeland security-related activities;

''(6) provide analytic and reporting advice and assistance to State, local, and regional fusion centers;

''(7) review homeland security information gathered by State, local, and regional fusion centers and incorporate relevant information with homeland security information of the Department;

''(8) provide management assistance to State, local, and regional fusion centers;

''(9) serve as a point of contact to ensure the dissemination of relevant homeland security information;

''(10) facilitate close communication and coordination between State, local, and regional fusion centers and the Department;

''(11) provide State, local, and regional fusion centers with expertise on Department resources and operations;

''(12) provide training to State, local, and regional fusion centers and encourage such fusion centers to participate in terrorist threat-related exercises conducted by the Department; and

''(13) carry out such other duties as the Secretary determines are appropriate.

''(d) PERSONNEL ASSIGNMENT.—

''(1) IN GENERAL.—The Chief Intelligence Officer may, to the maximum extent practicable, assign officers and intelligence analysts from components of the Department to State, local, and regional fusion centers.

''(2) PERSONNEL SOURCES.—Officers and intelligence analysts assigned to fusion centers under this subsection may be assigned from the following Department components, in consultation with the respective component head:

''(A) Office of Intelligence and Analysis, or its successor.

''(B) Office of Infrastructure Protection.

''(C) Transportation Security Administration.

''(D) United States Customs and Border Protection.

''(E) United States Immigration and Customs Enforcement.

''(F) United States Coast Guard.

''(G) Other intelligence components of the Department, as determined by the Secretary.

''(3) PARTICIPATION.—

''(A) IN GENERAL.—The Secretary may develop qualifying criteria for a fusion center to participate in the assigning of Department officers or intelligence analysts under this section.

''(B) CRITERIA.—Any criteria developed under subparagraph (A) may include—

''(i) whether the fusion center, through its mission and governance structure, focuses on a broad counterterrorism approach, and whether that broad approach is pervasive through all levels of the organization;

''(ii) whether the fusion center has sufficient numbers of adequately trained personnel to support a broad counterterrorism mission;

''(iii) whether the fusion center has—

''(I) access to relevant law enforcement, emergency response, private sector, open source, and national security data; and

''(II) the ability to share and analytically exploit that data for authorized purposes;

''(iv) whether the fusion center is adequately funded by the State, local, or regional government to support its counterterrorism mission; and

''(v) the relevancy of the mission of the fusion center to the particular source component of Department officers or intelligence analysts.

''(4) PREREQUISITE.—

''(A) INTELLIGENCE ANALYSIS, PRIVACY, AND CIVIL LIBERTIES TRAINING.—Before being assigned to a fusion center under this section, an officer or intelligence analyst shall undergo—

''(i) appropriate intelligence analysis or information sharing training using an intelligence-led policing curriculum that is consistent with—

''(I) standard training and education programs offered to Department law enforcement and intelligence personnel; and

''(II) the Criminal Intelligence Systems Operating Policies under part 23 of title 28, Code of Federal Regulations (or any corresponding similar regulation or ruling);

''(ii) appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer appointed under section 222 and the Officer for Civil Rights and Civil Liberties of the Department, in partnership with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (5 U.S.C. 601 note); and

''(iii) such other training prescribed by the Chief Intelligence Officer.

''(B) PRIOR WORK EXPERIENCE IN AREA.—In determining the eligibility of an officer or intelligence analyst to be assigned to a fusion center under this section, the Chief Intelligence Officer shall consider the familiarity of the officer or intelligence analyst with the State, locality, or region, as determined by such factors as whether the officer or intelligence analyst—

''(i) has been previously assigned in the geographic area; or

''(ii) has previously worked with intelligence officials or emergency response providers from that State, locality, or region.

''(5) EXPEDITED SECURITY CLEARANCE PROCESSING.—The Chief Intelligence Officer—

''(A) shall ensure that each officer or intelligence analyst assigned to a fusion center under this section has the appropriate clearance to contribute effectively to the mission of the fusion center; and

''(B) may request that security clearance processing be expedited for each such officer or intelligence analyst.

''(6) FURTHER QUALIFICATIONS.—Each officer or intelligence analyst assigned to a fusion center under this section shall satisfy any other qualifications the Chief Intelligence Officer may prescribe.

''(e) RESPONSIBILITIES.—An officer or intelligence analyst assigned to a fusion center under this section shall—

''(1) assist law enforcement agencies and other emergency response providers of State, local, and tribal governments and fusion center personnel in using Federal homeland security information to develop a comprehensive and accurate threat picture;

''(2) review homeland security-relevant information from law enforcement agencies and other emergency response providers of State, local, and tribal government;

''(3) create intelligence and other information products derived from such information and other homeland security-relevant information provided by the Department;

''(4) assist in the dissemination of such products, under the coordination of the Chief Intelligence Officer, to law enforcement agencies and other emergency response providers of State, local, and tribal government; and

''(5) assist in the dissemination of such products to the Chief Intelligence Officer for collection and dissemination to other fusion centers.

''(f) DATABASE ACCESS.—In order to fulfill the objectives described under subsection (e), each officer or intelligence analyst assigned to a fusion center under this section shall have direct access to all relevant Federal databases and information systems, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment for the implementation and management of that environment.

''(g) CONSUMER FEEDBACK.—

''(1) IN GENERAL.—The Secretary shall create a mechanism for any State, local, or tribal emergency response provider who is a consumer of the intelligence or other information products described under subsection (e) to voluntarily provide feedback to the Department on the quality and utility of such intelligence products.

''(2) RESULTS.—The results of the voluntary feedback under paragraph (1) shall be provided electronically to Congress and appropriate personnel of the Department.

''(h) RULE OF CONSTRUCTION.—

''(1) IN GENERAL.—The authorities granted under this section shall supplement the authorities granted under section 201(d) and nothing in this section shall be construed to abrogate the authorities granted under section 201(d).

''(2) PARTICIPATION.—Nothing in this section shall be construed to require a State, local, or regional government or entity to accept the assignment of officers or intelligence analysts of the Department into the fusion center of that State, locality, or region.

''(i) GUIDELINES.—The Secretary, in consultation with the Attorney General of the United States, shall establish guidelines for fusion centers operated by State and local governments, to include standards that any such fusion center shall—

''(1) collaboratively develop a mission statement, identify expectations and goals, measure performance, and determine effectiveness for that fusion center;

''(2) create a representative governance structure that includes emergency response providers and, as appropriate, the private sector;

''(3) create a collaborative environment for the sharing of information and intelligence among Federal, State, tribal, and local government agencies (including emergency response providers), the private sector, and the public, consistent with any policies, guidelines, procedures, instructions, or standards established by the President or, as appropriate, the program manager of the information sharing environment;

''(4) leverage the databases, systems, and networks available from public and private sector entities to maximize information sharing;

''(5) develop, publish, and adhere to a privacy and civil liberties policy consistent with Federal, State, and local law;

''(6) ensure appropriate security measures are in place for the facility, data, and personnel;

''(7) select and train personnel based on the needs, mission, goals, and functions of that fusion center;

''(8) offer a variety of intelligence services and products to recipients of fusion center intelligence and information; and

''(9) incorporate emergency response providers, and, as appropriate, the private sector, into all relevant phases of the intelligence and fusion process through full time representatives or liaison officers.

''(j) AUTHORIZATION OF APPROPRIATIONS.—Except for subsection (i), there are authorized to be appropriated $10,000,000 for each of fiscal years 2008 through 2012, to carry out this section, including for hiring officers and intelligence analysts to replace officers and intelligence analysts who are assigned to fusion centers under this section.''.

(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 205, as added by this Act, the following:

''Sec. 206. State, Local, and Regional Information Fusion Center Initiative.''.

(c) REPORTS.—

(1) CONCEPT OF OPERATIONS.—Not later than 90 days after the date of enactment of this Act and before the State, Local, and Regional Fusion Center Initiative under section 206 of the Homeland Security Act of 2002, as added by subsection (a), (in this section referred to as the ''program'') has been implemented, the Secretary, in consultation with the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorist Prevention Act of 2004 (5 U.S.C. 601 note), 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 contains a concept of operations for the program, which shall—

(A) include a clear articulation of the purposes, goals, and specific objectives for which the program is being developed;

(B) identify stakeholders in the program and provide an assessment of their needs;

(C) contain a developed set of quantitative metrics to measure, to the extent possible, program output;

(D) contain a developed set of qualitative instruments (including surveys and expert interviews) to assess the extent to which stakeholders believe their needs are being met; and

(E) include a privacy and civil liberties impact assessment.

(2) PRIVACY AND CIVIL LIBERTIES.—Not later than 1 year after the date on which the program is implemented, the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorist Prevention Act of 2004 (5 U.S.C. 601 note), in consultation with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, shall submit to Congress, the Secretary, and the Chief Intelligence Officer of the Department a report on the privacy and civil liberties impact of the program.

SEC. 122. HOMELAND SECURITY INFORMATION SHARING FELLOWS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), as amended by this Act, is amended by adding at the end the following:

''SEC. 207. HOMELAND SECURITY INFORMATION SHARING FELLOWS PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Chief Intelligence Officer, and in consultation with the Chief Human Capital Officer, shall establish a fellowship program in accordance with this section for the purpose of—

''(A) detailing State, local, and tribal law enforcement officers and intelligence analysts to the Department in accordance with subchapter VI of chapter 33 of title 5, United States Code, to participate in the work of the Office of Intelligence and Analysis in order to become familiar with—

''(i) the relevant missions and capabilities of the Department and other Federal agencies; and

''(ii) the role, programs, products, and personnel of the Office of Intelligence and Analysis; and

''(B) promoting information sharing between the Department and State, local, and tribal law enforcement officers and intelligence analysts by assigning such officers and analysts to—

''(i) serve as a point of contact in the Department to assist in the representation of State, local, and tribal homeland security information needs;

''(ii) identify homeland security information of interest to State, local, and tribal law enforcement officers, emergency response providers, and intelligence analysts; and

''(iii) assist Department analysts in preparing and disseminating terrorism-related products that are tailored to State, local, and tribal emergency response providers, law enforcement officers, and intelligence analysts and designed to prepare for and thwart terrorist attacks.

''(2) PROGRAM NAME.—The program under this section shall be known as the 'Homeland Security Information Sharing Fellows Program'.

''(b) ELIGIBILITY.—

''(1) IN GENERAL.—In order to be eligible for selection as an Information Sharing Fellow under the program under this section, an individual shall—

''(A) have homeland security-related responsibilities;

''(B) be eligible for an appropriate national security clearance;

''(C) possess a valid need for access to classified information, as determined by the Chief Intelligence Officer;

''(D) be an employee of an eligible entity; and

''(E) have undergone appropriate privacy and civil liberties training that is developed, supported, or sponsored by the Privacy Officer and the Officer for Civil Rights and Civil Liberties, in partnership with the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorist Prevention Act of 2004 (5 U.S.C. 601 note).

''(2) ELIGIBLE ENTITIES.—In this subsection, the term 'eligible entity' means—

''(A) a State, local, or regional fusion center;

''(B) a State or local law enforcement or other government entity that serves a major metropolitan area, suburban area, or rural area, as determined by the Secretary;

''(C) a State or local law enforcement or other government entity with port, border, or agricultural responsibilities, as determined by the Secretary;

''(D) a tribal law enforcement or other authority; or

''(E) such other entity as the Secretary determines is appropriate.

''(c) OPTIONAL PARTICIPATION.—No State, local, or tribal law enforcement or other government entity shall be required to participate in the Homeland Security Information Sharing Fellows Program.

''(d) PROCEDURES FOR NOMINATION AND SELECTION.—

''(1) IN GENERAL.—The Chief Intelligence Officer shall establish procedures to provide for the nomination and selection of individuals to participate in the Homeland Security Information Sharing Fellows Program.

''(2) LIMITATIONS.—The Chief Intelligence Officer shall—

''(A) select law enforcement officers and intelligence analysts representing a broad

cross-section of State, local, and tribal agencies; and

''(B) ensure that the number of Information Sharing Fellows selected does not impede the activities of the Office of Intelligence and Analysis.

''(e) DEFINITIONS.—In this section—

''(1) the term 'Chief Intelligence Officer' means the Chief Intelligence Officer of the Department; and

''(2) the term 'Office of Intelligence and Analysis' means the office of the Chief Intelligence Officer.''.

(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 206, as added by this Act, the following:

''Sec. 207. Homeland Security Information Sharing Fellows Program.''.

(c) REPORTS.—

(1) CONCEPT OF OPERATIONS.—Not later than 90 days after the date of enactment of this Act, and before the implementation of the Homeland Security Information Sharing Fellows Program under section 207 of the Homeland Security Act of 2002, as added by subsection (a), (in this section referred to as the ''Program'') the Secretary, in consultation with the Privacy Officer of the Department, the Officer for Civil Rights and Civil Liberties of the Department, and the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorist Prevention Act of 2004 (5 U.S.C. 601 note), 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 contains a concept of operations for the Program, which shall include a privacy and civil liberties impact assessment.

(2) REVIEW OF PRIVACY IMPACT.—Not later than 1 year after the date on which the Program is implemented, the Privacy and Civil Liberties Oversight Board established under section 1061 of the Intelligence Reform and Terrorist Prevention Act of 2004 (5 U.S.C. 601 note), in consultation with the Privacy Officer of the Department and the Officer for Civil Rights and Civil Liberties of the Department, shall submit to Congress, the Secretary, and the Chief Intelligence Officer of the Department a report on the privacy and civil liberties impact of the Program.

SEC. 123. RURAL POLICING INSTITUTE.

(a) IN GENERAL.—There is established a Rural Policing Institute, which shall be administered by the Office of State and Local Training of the Federal Law Enforcement Training Center (based in Glynco, Georgia), to—

(1) evaluate the needs of law enforcement agencies of units of local government and tribal governments located in rural areas;

(2) develop expert training programs designed to address the needs of rural law enforcement agencies regarding combating methamphetamine addiction and distribution, domestic violence, law enforcement response related to school shootings, and other topics identified in the evaluation conducted under paragraph (1);

(3) provide the training programs described in paragraph (2) to law enforcement agencies of units of local government and tribal governments located in rural areas; and

(4) conduct outreach efforts to ensure that training programs under the Rural Policing Institute reach law enforcement officers of units of local government and tribal governments located in rural areas.

(b) CURRICULA.—The training at the Rural Policing Institute established under subsection (a) shall be configured in a manner so as to not duplicate or displace any law enforcement program of the Federal Law Enforcement Training Center in existence on the date of enactment of this Act.

(c) DEFINITION.—In this section, the term ''rural'' means area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section (including for contracts, staff, and equipment)—

(1) $10,000,000 for fiscal year 2008; and

(2) $5,000,000 for each of fiscal years 2009 through 2013.

Subtitle C—Interagency Threat Assessment and Coordination Group

SEC. 131. INTERAGENCY THREAT ASSESSMENT AND COORDINATION GROUP.

(a) IN GENERAL.—As part of efforts to establish the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the program manager shall oversee and coordinate the creation and ongoing operation of an Interagency Threat Assessment and Coordination Group (in this section referred to as the ''ITACG'').

(b) RESPONSIBILITIES.—The ITACG shall facilitate the production of federally coordinated products derived from information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and intended for distribution to State, local, and tribal government officials and the private sector.

(c) OPERATIONS.—

(1) IN GENERAL.—The ITACG shall be located at the facilities of the National Counterterrorism Center of the Office of the Director of National Intelligence.

(2) MANAGEMENT.—

(A) IN GENERAL.—The Secretary shall assign a senior level officer to manage and direct the administration of the ITACG.

(B) DISTRIBUTION.—The Secretary, in consultation with the Attorney General and the heads of other agencies, as appropriate, shall determine how specific products shall be distributed to State, local, and tribal officials and private sector partners under this section.

(C) STANDARDS FOR ADMISSION.—The Secretary, acting through the Chief Intelligence Officer and in consultation with the Director of National Intelligence, the Attorney General, and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485), shall establish standards for the admission of law enforcement and intelligence officials from a State, local, or tribal government into the ITACG.

(d) MEMBERSHIP.—

(1) IN GENERAL.—The ITACG shall include representatives of—

(A) the Department;

(B) the Federal Bureau of Investigation;

(C) the Department of Defense;

(D) the Department of Energy;

(E) law enforcement and intelligence officials from State, local, and tribal governments, as appropriate; and

(F) other Federal entities as appropriate.

(2) CRITERIA.—The program manager for the information sharing environment, in consultation with the Secretary of Defense, the Secretary, the Director of National Intelligence, and the Director of the Federal Bureau of Investigation shall develop qualifying criteria and establish procedures for selecting personnel assigned to the ITACG and for the proper handling and safeguarding of information related to terrorism.

(e) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The ITACG and any subsidiary groups thereof shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

TITLE II—HOMELAND SECURITY GRANTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Homeland Security Grant Enhancement Act of 2007''.

SEC. 202. HOMELAND SECURITY GRANT PROGRAM.

The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

''TITLE XX—HOMELAND SECURITY GRANTS

''SEC. 2001. DEFINITIONS.

''In this title, the following definitions shall apply:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

''(2) COMBINED STATISTICAL AREA.—The term 'combined statistical area' means a combined statistical area, as defined by the Office of Management and Budget.

''(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means—

''(A) any Indian tribe that—

''(i) is located in the continental United States;

''(ii) operates a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services;

''(iii) is located—

''(I) on, or within 50 miles of, an international border or a coastline bordering an ocean or international waters;

''(II) within 10 miles of critical infrastructure or has critical infrastructure within its territory; or

''(III) within or contiguous to 1 of the 50 largest metropolitan statistical areas in the United States; and

''(iv) certifies to the Secretary that a State is not making funds distributed under this title available to the Indian tribe or consortium of Indian tribes for the purpose for which the Indian tribe or consortium of Indian tribes is seeking grant funds; and

''(B) a consortium of Indian tribes, if each tribe satisfies the requirements of subparagraph (A).

''(4) ELIGIBLE METROPOLITAN AREA.—The term 'eligible metropolitan area' means the following:

''(A) IN GENERAL.—A combination of 2 or more incorporated municipalities, counties, parishes, or Indian tribes that—

''(i) is within—

''(I) any of the 100 largest metropolitan statistical areas in the United States; or

''(II) any combined statistical area, of which any metropolitan statistical area described in subparagraph (A) is a part; and

''(ii) includes the city with the largest population in that metropolitan statistical area.

''(B) OTHER COMBINATIONS.—Any other combination of contiguous local or tribal governments that are formally certified by the Administrator as an eligible metropolitan area for purposes of this title with the consent of the State or States in which such local or tribal governments are located.

''(C) INCLUSION OF ADDITIONAL LOCAL GOVERNMENTS.—An eligible metropolitan area may include additional local or tribal governments outside the relevant metropolitan statistical area or combined statistical area that are likely to be affected by, or be called upon to respond to, a terrorist attack within the metropolitan statistical area.

''(5) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination Act (25 U.S.C. 450b(e)).

''(6) METROPOLITAN STATISTICAL AREA.—The term 'metropolitan statistical area' means a metropolitan statistical area, as defined by the Office of Management and Budget.

''(7) NATIONAL SPECIAL SECURITY EVENT.—The term 'National Special Security Event' means a designated event that, by virtue of its political, economic, social, or religious significance, may be the target of terrorism or other criminal activity.

''(8) POPULATION.—The term 'population' means population according to the most recent United States census population estimates available at the start of the relevant fiscal year.

''(9) POPULATION DENSITY.—The term 'population density' means population divided by land area in square miles.

''(10) TARGET CAPABILITIES.—The term 'target capabilities' means the target capabilities for Federal, State, local, and tribal government preparedness for which guidelines are required to be established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 746(a)).

''(11) TRIBAL GOVERNMENT.—The term 'tribal government' means the government of an Indian tribe.

''SEC. 2002. HOMELAND SECURITY GRANT PROGRAM.

''(a) GRANTS AUTHORIZED.—The Secretary, through the Administrator, may award grants to State, local, and tribal governments for the purposes of this title.

''(b) PROGRAMS NOT AFFECTED.—This title shall not be construed to affect any authority to award grants under any of the following Federal programs:

''(1) The firefighter assistance programs authorized under section 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229 and 2229a).

''(2) The Urban Search and Rescue Grant Program authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

''(3) Grants to protect critical infrastructure, including port security grants authorized under section 70107 of title 46, United States Code, and the grants authorized in title XIV and XV of the Improving America's Security Act of 2007.

''(4) The Metropolitan Medical Response System authorized under section 635 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 723).

''(5) Grant programs other than those administered by the Department.

''(c) RELATIONSHIP TO OTHER LAWS.—

''(1) IN GENERAL.—The grant programs authorized under this title shall supercede all grant programs authorized under section 1014 of the USA PATRIOT Act (42 U.S.C. 3714).

''(2) PROGRAM INTEGRITY.—Each grant program under this title, section 1809 of this Act, or section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 763) shall include, consistent with the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note), policies and procedures for—

''(A) identifying activities funded under any such grant program that are susceptible to significant improper payments; and

''(B) reporting the incidence of improper payments to the Department.

''(3) ALLOCATION.—Except as provided under paragraph (2) of this subsection, the allocation of grants authorized under this title shall be governed by the terms of this title and not by any other provision of law.

''(d) MINIMUM PERFORMANCE REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator shall—

''(A) establish minimum performance requirements for entities that receive homeland security grants;

''(B) conduct, in coordination with State, regional, local, and tribal governments receiving grants under this title, section 1809 of this Act, or section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 763), simulations and exercises to test the minimum performance requirements established under subparagraph (A) for—

''(i) emergencies (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) and major disasters not less than twice each year; and

''(ii) catastrophic incidents (as that term is defined in section 501) not less than once each year; and

''(C) ensure that entities that the Administrator determines are failing to demonstrate minimum performance requirements established under subparagraph (A) shall remedy the areas of failure, not later than the end of the second full fiscal year after the date of such determination by—

''(i) establishing a plan for the achievement of the minimum performance requirements under subparagraph (A), including—

''(I) developing intermediate indicators for the 2 fiscal years following the date of such determination; and

''(II) conducting additional simulations and exercises; and

''(ii) revising an entity's homeland security plan, if necessary, to achieve the minimum performance requirements under subparagraph (A).

''(2) WAIVER.—At the discretion of the Administrator, the occurrence of an actual emergency, major disaster, or catastrophic incident in an area may be deemed as a simulation under paragraph (1)(B).

''(3) REPORT TO CONGRESS.—Not later than the end of the first full fiscal year after the date of enactment of the Improving America's Security Act of 2007, and each fiscal year thereafter, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and to the Committee on Homeland Security of the House of Representatives a report describing—

''(A) the performance of grantees under paragraph (1)(A);

''(B) lessons learned through the simulations and exercises under paragraph (1)(B); and

''(C) efforts being made to remedy failed performance under paragraph (1)(C).

''SEC. 2003. URBAN AREA SECURITY INITIATIVE.

''(a) ESTABLISHMENT.—There is established an Urban Area Security Initiative to provide grants to assist high-risk metropolitan areas in preventing, preparing for, protecting against, responding to, and recovering from acts of terrorism.

''(b) APPLICATION.—

''(1) IN GENERAL.—An eligible metropolitan area may apply for grants under this section.

''(2) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis for grants distributed under the program.

''(3) INFORMATION.—In an application for a grant under this section, an eligible metropolitan area shall submit—

''(A) a plan describing the proposed division of responsibilities and distribution of funding among the local and tribal governments in the eligible metropolitan area;

''(B) the name of an individual to serve as a metropolitan area liaison with the Department and among the various jurisdictions in the metropolitan area; and

''(C) such information in support of the application as the Administrator may reasonably require.

''(c) STATE REVIEW AND TRANSMISSION.—

''(1) IN GENERAL.—To ensure consistency with State homeland security plans, an eligible metropolitan area applying for a grant under this section shall submit its application to each State within which any part of the eligible metropolitan area is located for review before submission of such application to the Department.

''(2) DEADLINE.—Not later than 30 days after receiving an application from an eligible metropolitan area under paragraph (1), each such State shall transmit the application to the Department.

''(3) STATE DISAGREEMENT.—If the Governor of any such State determines that an application of an eligible metropolitan area is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

''(A) notify the Administrator, in writing, of that fact; and

''(B) provide an explanation of the reason for not supporting the application at the time of transmission of the application.

''(d) PRIORITIZATION.—In allocating funds among metropolitan areas applying for grants under this section, the Administrator shall consider—

''(1) the relative threat, vulnerability, and consequences faced by the eligible metropolitan area from a terrorist attack, including consideration of—

''(A) the population of the eligible metropolitan area, including appropriate consideration of military, tourist, and commuter populations;

''(B) the population density of the eligible metropolitan area;

''(C) the history of threats faced by the eligible metropolitan area, including—

''(i) whether there has been a prior terrorist attack in the eligible metropolitan area; and

''(ii) whether any part of the eligible metropolitan area, or any critical infrastructure or key resource within the eligible metropolitan area, has ever experienced a higher threat level under the Homeland Security Advisory System than other parts of the United States;

''(D) the degree of threat, vulnerability, and consequences to the eligible metropolitan area related to critical infrastructure or key resources identified by the Secretary or the State homeland security plan, including threats, vulnerabilities, and consequences from critical infrastructure in nearby jurisdictions;

''(E) whether the eligible metropolitan area is located at or near an international border;

''(F) whether the eligible metropolitan area has a coastline bordering ocean or international waters;

''(G) threats, vulnerabilities, and consequences faced by the eligible metropolitan area related to at-risk sites or activities in nearby jurisdictions, including the need to respond to terrorist attacks arising in those jurisdictions;

''(H) the most current threat assessments available to the Department;

''(I) the extent to which the eligible metropolitan area has unmet target capabilities;

''(J) the extent to which the eligible metropolitan area includes—

''(i) all incorporated municipalities, counties, parishes, and Indian tribes within the relevant metropolitan statistical area or combined statistical area the inclusion of which will enhance regional efforts to prevent, prepare for, protect against, respond to, and recover from acts of terrorism; and

''(ii) other local governments and tribes that are likely to be called upon to respond to a terrorist attack within the eligible metropolitan area; and

''(K) such other factors as are specified in writing by the Administrator; and

''(2) the anticipated effectiveness of the proposed spending plan for the eligible metropolitan area in increasing the ability of that eligible metropolitan area to prevent, prepare for, protect against, respond to, and recover from terrorism, to meet its target capabilities, and to otherwise reduce the overall risk to the metropolitan area, the State, and the Nation.

''(e) OPPORTUNITY TO AMEND.—In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

''(f) ALLOWABLE USES.—Grants awarded under this section may be used to achieve target capabilities, consistent with a State homeland security plan and relevant local and regional homeland security plans, through—

''(1) developing and enhancing State, local, or regional plans, risk assessments, or mutual aid agreements;

''(2) purchasing, upgrading, storing, or maintaining equipment;

''(3) designing, conducting, and evaluating training and exercises, including exercises of mass evacuation plans under section 512 and including the payment of overtime and backfill costs in support of such activities;

''(4) responding to an increase in the threat level under the Homeland Security Advisory System, or to the needs resulting from a National Special Security Event, including payment of overtime and backfill costs;

''(5) establishing, enhancing, and staffing with appropriately qualified personnel State and local fusion centers that comply with the guidelines established under section 206(i);

''(6) protecting critical infrastructure and key resources identified in the Critical Infrastructure List established under section 1101 of the Improving America's Security Act of 2007, including the payment of appropriate personnel costs;

''(7) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the Urban Area Security Initiative or the Law Enforcement Terrorism Prevention Grant Program, including activities permitted under the full-time counterterrorism staffing pilot; and

''(8) any other activity relating to achieving target capabilities approved by the Administrator.

''(g) DISTRIBUTION OF AWARDS TO METROPOLITAN AREAS.—

''(1) IN GENERAL.—If the Administrator approves the application of an eligible metropolitan area for a grant under this section, the Administrator shall distribute the grant funds to the State or States in which the eligible metropolitan area is located.

''(2) STATE DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Each State shall provide the eligible metropolitan area not less than 80 percent of the grant funds. Any funds retained by a State shall be expended on items or services approved by the Administrator that benefit the eligible metropolitan area.

''(B) FUNDS RETAINED.—A State shall provide each relevant eligible metropolitan area with an accounting of the items or services on which any funds retained by the State under subparagraph (A) were expended.

''(3) MULTISTATE REGIONS.—If parts of an eligible metropolitan area awarded a grant are located in 2 or more States, the Secretary shall distribute to each such State—

''(A) a portion of the grant funds in accordance with the proposed distribution set forth in the application; or

''(B) if no agreement on distribution has been reached, a portion of the grant funds in proportion to each State's share of the population of the eligible metropolitan area.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

''(1) for fiscal year 2007, such sums as are necessary;

''(2) for each of fiscal years 2008, 2009, and 2010, $1,278,639,000; and

''(3) for fiscal year 2011, and each fiscal year thereafter, such sums as are necessary.

''SEC. 2004. STATE HOMELAND SECURITY GRANT PROGRAM.

''(a) ESTABLISHMENT.—There is established a State Homeland Security Grant Program to assist State, local, and tribal governments in preventing, preparing for, protecting against, responding to, and recovering from acts of terrorism.

''(b) APPLICATION.—

''(1) IN GENERAL.—Each State may apply for a grant under this section, and shall submit such information in support of the application as the Administrator may reasonably require.

''(2) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis for grants distributed under the program.

''(c) PRIORITIZATION.—In allocating funds among States applying for grants under this section, the Administrator shall consider—

''(1) the relative threat, vulnerability, and consequences faced by a State from a terrorist attack, including consideration of—

''(A) the size of the population of the State, including appropriate consideration of military, tourist, and commuter populations;

''(B) the population density of the State;

''(C) the history of threats faced by the State, including—

''(i) whether there has been a prior terrorist attack in an urban area that is wholly or partly in the State, or in the State itself; and

''(ii) whether any part of the State, or any critical infrastructure or key resource within the State, has ever experienced a higher threat level under the Homeland Security Advisory System than other parts of the United States;

''(D) the degree of threat, vulnerability, and consequences related to critical infrastructure or key resources identified by the Secretary or the State homeland security plan;

''(E) whether the State has an international border;

''(F) whether the State has a coastline bordering ocean or international waters;

''(G) threats, vulnerabilities, and consequences faced by a State related to at-risk sites or activities in adjacent States, including the State's need to respond to terrorist attacks arising in adjacent States;

''(H) the most current threat assessments available to the Department;

''(I) the extent to which the State has unmet target capabilities; and

''(J) such other factors as are specified in writing by the Administrator;

''(2) the anticipated effectiveness of the proposed spending plan of the State in increasing the ability of the State to—

''(A) prevent, prepare for, protect against, respond to, and recover from terrorism;

''(B) meet the target capabilities of the State; and

''(C) otherwise reduce the overall risk to the State and the Nation; and

''(3) the need to balance the goal of ensuring the target capabilities of the highest risk areas are achieved quickly and the goal of ensuring that basic levels of preparedness, as measured by the attainment of target capabilities, are achieved nationwide.

''(d) MINIMUM ALLOCATION.—In allocating funds under subsection (c), the Administrator shall ensure that, for each fiscal year—

''(1) except as provided for in paragraph (2), no State receives less than an amount equal to 0.45 percent of the total funds appropriated for the State Homeland Security Grant Program; and

''(2) American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive not less than 0.08 percent of the amounts appropriated for the State Homeland Security Grant Program.

''(e) MULTISTATE PARTNERSHIPS.—

''(1) IN GENERAL.—Instead of, or in addition to, any application for funds under subsection (b), 2 or more States may submit an application under this paragraph for multistate efforts to prevent, prepare for, protect against, respond to, or recover from acts of terrorism.

''(2) GRANTEES.—Multistate grants may be awarded to either—

''(A) an individual State acting on behalf of a consortium or partnership of States with the consent of all member States; or

''(B) a group of States applying as a consortium or partnership.

''(3) ADMINISTRATION OF GRANT.—If a group of States apply as a consortium or partnership such States shall submit to the Secretary at the time of application a plan describing—

''(A) the division of responsibilities for administering the grant; and

''(B) the distribution of funding among the various States and entities that are party to the application.

''(f) FUNDING FOR LOCAL AND TRIBAL GOVERNMENTS.—

''(1) IN GENERAL.—The Administrator shall require that, not later than 60 days after receiving grant funding, any State receiving a grant under this section shall make available to local and tribal governments and emergency response providers, consistent with the applicable State homeland security plan—

''(A) not less than 80 percent of the grant funds;

''(B) with the consent of local and tribal governments, the resources purchased with such grant funds having a value equal to not less than 80 percent of the amount of the grant; or

''(C) grant funds combined with resources purchased with the grant funds having a value equal to not less than 80 percent of the amount of the grant.

''(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Administrator extend the period under paragraph (1) for an additional period of time. The Administrator may approve such a request, and may extend such period for an additional period, if the Administrator determines that the resulting delay in providing grant funding to the local and tribal governments and emergency response providers is necessary to promote effective investments to prevent, prepare for, protect against, respond to, and recover from terrorism, or to meet the target capabilities of the State.

''(3) INDIAN TRIBES.—States shall be responsible for allocating grant funds received under this section to tribal governments in order to help those tribal communities achieve target capabilities. Indian tribes shall be eligible for funding directly from the States, and shall not be required to seek funding from any local government.

''(4) EXCEPTION.—Paragraph (1) shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or the Virgin Islands.

''(g) GRANTS TO DIRECTLY ELIGIBLE TRIBES.—

''(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may award grants to directly eligible tribes under this section.

''(2) TRIBAL APPLICATIONS.—A directly eligible tribe may apply for a grant under this section by submitting an application to the Administrator that includes the information required for an application by a State under subsection (b).

''(3) STATE REVIEW.—

''(A) IN GENERAL.—To ensure consistency with State homeland security plans, a directly eligible tribe applying for a grant under this section shall submit its application to each State within which any part of the tribe is located for review before submission of such application to the Department.

''(B) DEADLINE.—Not later than 30 days after receiving an application from a directly eligible tribe under subparagraph (A), each such State shall transmit the application to the Department.

''(C) STATE DISAGREEMENT.—If the Governor of any such State determines that the application of a directly eligible tribe is inconsistent with the State homeland security plan of that State, or otherwise does not support the 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 at the time of transmission of the application.

''(4) DISTRIBUTION OF AWARDS TO DIRECTLY ELIGIBLE TRIBES.—If the Administrator awards funds to a directly eligible tribe under this section, the Administrator shall distribute the grant funds directly to the directly eligible tribe. The funds shall not be distributed to the State or States in which the directly eligible tribe is located.

''(5) TRIBAL LIAISON.—A directly eligible tribe applying for a grant under this section shall designate a specific individual to serve as the tribal liaison who shall—

''(A) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

''(B) develop a process for receiving input from Federal, State, local, regional, and private officials to assist in the development of the application of such tribe and to improve the access of such tribe to grants; and

''(C) administer, in consultation with State, local, regional, and private officials, grants awarded to such tribe.

''(6) TRIBES RECEIVING DIRECT GRANTS.—A directly eligible tribe that receives a grant directly under this section is eligible to receive funds for other purposes under a grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State.

''(7) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of an Indian tribe that receives funds under this section.

''(h) OPPORTUNITY TO AMEND.—In considering applications for grants under this section, the Administrator shall provide applicants with a reasonable opportunity to correct defects in the application, if any, before making final awards.

''(i) ALLOWABLE USES.—Grants awarded under this section may be used to achieve target capabilities, consistent with a State homeland security plan, through—

''(1) developing and enhancing State, local, tribal, or regional plans, risk assessments, or mutual aid agreements;

''(2) purchasing, upgrading, storing, or maintaining equipment;

''(3) designing, conducting, and evaluating training and exercises, including exercises of mass evacuation plans under section 512 and including the payment of overtime and backfill costs in support of such activities;

''(4) responding to an increase in the threat level under the Homeland Security Advisory System, including payment of overtime and backfill costs;

''(5) establishing, enhancing, and staffing with appropriately qualified personnel State and local fusion centers, that comply with the guidelines established under section 206(i);

''(6) protecting critical infrastructure and key resources identified in the Critical Infrastructure List established under section 1101 of the Improving America's Security Act of 2007, including the payment of appropriate personnel costs;

''(7) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the State Homeland Security Grant Program or the Law Enforcement Terrorism Prevention Grant Program, including activities permitted under the full-time counterterrorism staffing pilot; and

''(8) any other activity relating to achieving target capabilities approved by the Administrator.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

''(1) for fiscal year 2007, such sums as are necessary;

''(2) for each of fiscal years 2008, 2009, and 2010, $913,180,500; and

''(3) for fiscal year 2011, and each fiscal year thereafter, such sums as are necessary.

''SEC. 2005. TERRORISM PREVENTION.

''(a) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

''(1) IN GENERAL.—The Administrator shall designate not less than 25 percent of the combined amount appropriated for grants under sections 2003 and 2004 to be used for law enforcement terrorism prevention activities.

''(2) USE OF FUNDS.—Grants awarded under this subsection may be used for—

''(A) information sharing to preempt terrorist attacks;

''(B) target hardening to reduce the vulnerability of selected high value targets;

''(C) threat recognition to recognize the potential or development of a threat;

''(D) intervention activities to interdict terrorists before they can execute a threat;

''(E) overtime expenses related to a State homeland security plan, including overtime costs associated with providing enhanced law enforcement operations in support of Federal agencies for increased border security and border crossing enforcement;

''(F) establishing, enhancing, and staffing with appropriately qualified personnel State and local fusion centers that comply with the guidelines established under section 206(i);

''(G) any other activity permitted under the Fiscal Year 2007 Program Guidance of the Department for the Law Enforcement Terrorism Prevention Program; and

''(H) any other terrorism prevention activity authorized by the Administrator.

''(b) OFFICE FOR THE PREVENTION OF TERRORISM.—

''(1) ESTABLISHMENT.—There is established in the Department an Office for the Prevention of Terrorism, which shall be headed by a Director.

''(2) DIRECTOR.—

''(A) REPORTING.—The Director of the Office for the Prevention of Terrorism shall report directly to the Secretary.

''(B) QUALIFICATIONS.—The Director of the Office for the Prevention of Terrorism shall have an appropriate background with experience in law enforcement, intelligence, and other antiterrorist functions.

''(3) ASSIGNMENT OF PERSONNEL.—

''(A) IN GENERAL.—The Secretary shall assign to the Office for the Prevention of Terrorism permanent staff and other appropriate personnel detailed from other components of the Department to carry out the responsibilities under this section.

''(B) LIAISONS.—The Secretary shall designate senior employees from each component of the Department that has significant antiterrorism responsibilities to act as liaisons between that component and the Office for the Prevention of Terrorism.

''(4) RESPONSIBILITIES.—The Director of the Office for the Prevention of Terrorism shall—

''(A) coordinate policy and operations between the Department and State, local, and tribal government agencies relating to preventing acts of terrorism within the United States;

''(B) serve as a liaison between State, local, and tribal law enforcement agencies and the Department;

''(C) in coordination with the Office of Intelligence and Analysis, develop better methods for the sharing of intelligence with State, local, and tribal law enforcement agencies;

''(D) work with the Administrator to ensure that homeland security grants to State, local, and tribal government agencies, including grants under this title, the Commercial Equipment Direct Assistance Program, and grants to support fusion centers and other law enforcement-oriented programs are adequately focused on terrorism prevention activities, including through review of budget requests for those programs; and

''(E) coordinate with the Federal Emergency Management Agency, the Department of Justice, the National Institute of Justice, law enforcement organizations, and other appropriate entities to support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for training and personal protective equipment to be used in a tactical environment by law enforcement officers.

''(5) PILOT PROJECT.—

''(A) IN GENERAL.—The Director of the Office for the Prevention of Terrorism, in coordination with the Administrator, shall establish a pilot project to determine the efficacy and feasibility of establishing law enforcement deployment teams.

''(B) FUNCTION.—The law enforcement deployment teams participating in the pilot program under this paragraph shall form the basis of a national network of standardized law enforcement resources to assist State, local, and tribal governments in responding to natural disasters, acts of terrorism, or other man-made disaster.

''(6) CONSTRUCTION.—Nothing in this section may be construed to affect the roles or responsibilities of the Department of Justice.

''SEC. 2006. RESTRICTIONS ON USE OF FUNDS.

''(a) LIMITATIONS ON USE.—

''(1) CONSTRUCTION.—

''(A) IN GENERAL.—Grants awarded under this title may not be used to acquire land or to construct buildings or other physical facilities.

''(B) EXCEPTIONS.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), nothing in this paragraph shall prohibit the use of grants awarded under this title to achieve target capabilities through—

''(I) the construction of facilities described in section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196); or

''(II) the alteration or remodeling of existing buildings for the purpose of making such buildings secure against terrorist attacks or able to withstand or protect against chemical, radiological, or biological attacks.

''(ii) REQUIREMENTS FOR EXCEPTION.—No grant awards may be used for the purposes under clause (i) unless—

''(I) specifically approved by the Administrator;

''(II) the construction occurs under terms and conditions consistent with the requirements under section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9)); and

''(III) the amount allocated for purposes under clause (i) does not exceed 20 percent of the grant award.

''(2) PERSONNEL.—

''(A) IN GENERAL.—For any grant awarded under section 2003 or 2004—

''(i) not more than 25 percent of the amount awarded to a grant recipient may be used to pay overtime and backfill costs; and

''(ii) not more than 25 percent of the amount awarded to the grant recipient may be used to pay personnel costs not described in clause (i).

''(B) WAIVER.—At the request of the recipient of a grant under section 2003 or section 2004, the Administrator may grant a waiver of any limitation under subparagraph (A).

''(C) EXCEPTION. The limitations under subparagraph (A) shall not apply to activities permitted under the full-time counterterrorism staffing pilot, as described in the Fiscal Year 2007 Program Guidance of the Department for the Urban Area Security Initiative.

''(3) RECREATION.—Grants awarded under this title may not be used for recreational or social purposes.

''(b) MULTIPLE-PURPOSE FUNDS.—Nothing in this title shall be construed to prohibit State, local, or tribal governments from using grant funds under sections 2003 and 2004 in a manner that enhances preparedness for disasters unrelated to acts of terrorism, if such use assists such governments in achieving capabilities for terrorism preparedness established by the Administrator.

''(c) EQUIPMENT STANDARDS.—If an applicant for a grant under this title proposes to upgrade or purchase, with assistance provided under that grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards developed under section 647 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 747), the applicant shall include in its application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

''(d) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this title shall be used to supplement and not supplant other State, local, and tribal government public funds obligated for the purposes provided under this title.

''SEC. 2007. ADMINISTRATION AND COORDINATION.

''(a) ADMINISTRATOR.—The Administrator shall, in consultation with other appropriate offices within the Department, have responsibility for administering all homeland security grant programs administered by the Department and for ensuring coordination among those programs and consistency in the guidance issued to recipients across those programs.

''(b) NATIONAL ADVISORY COUNCIL.—To ensure input from and coordination with State, local, and tribal governments and emergency response providers, the Administrator shall regularly consult and work with the National Advisory Council established under section 508 on the administration and assessment of grant programs administered by the Department, including with respect to the development of program guidance and the development and evaluation of risk-assessment methodologies.

''(c) REGIONAL COORDINATION.—The Administrator shall ensure that—

''(1) all recipients of homeland security grants administered by the Department, as a condition of receiving those grants, coordinate their prevention, preparedness, and protection efforts with neighboring State, local, and tribal governments, as appropriate; and

''(2) all metropolitan areas and other recipients of homeland security grants administered by the Department that include or substantially affect parts or all of more than 1 State, coordinate across State boundaries, including, where appropriate, through the use of regional working groups and requirements for regional plans, as a condition of receiving Departmentally administered homeland security grants.

''(d) PLANNING COMMITTEES.—

''(1) IN GENERAL.—Any State or metropolitan area receiving grants under section 2003 or 2004 shall establish a planning committee to assist in preparation and revision of the State, regional, or local homeland security plan and to assist in determining effective funding priorities.

''(2) COMPOSITION.—

''(A) IN GENERAL.—The planning committee shall include representatives of significant stakeholders, including—

''(i) local and tribal government officials; and

''(ii) emergency response providers, which shall include representatives of the fire service, law enforcement, emergency medical response, and emergency managers.

''(B) GEOGRAPHIC REPRESENTATION.—The members of the planning committee shall be a representative group of individuals from the counties, cities, towns, and Indian tribes within the State or metropolitan areas, including, as appropriate, representatives of rural, high-population, and high-threat jurisdictions.

''(3) EXISTING PLANNING COMMITTEES.—Nothing in this subsection may be construed to require that any State or metropolitan area create a planning committee if that State or metropolitan area has established and uses a multijurisdictional planning committee or commission that meets the requirements of this subsection.

''(e) INTERAGENCY COORDINATION.—The Secretary, through the Administrator, in coordination with the Attorney General, the Secretary of Health and Human Services, and other agencies providing assistance to State, local, and tribal governments for preventing, preparing for, protecting against, responding to, and recovering from natural disasters, acts of terrorism, and other manmade disasters, and not later than 12 months after the date of enactment of the Improving America's Security Act of 2007, shall—

''(1) compile a comprehensive list of Federal programs that provide assistance to State, local, and tribal governments for preventing, preparing for, and responding to, natural disasters, acts of terrorism, and other man-made disasters;

''(2) develop a proposal to coordinate, to the greatest extent practicable, the planning, reporting, application, and other requirements and guidance for homeland security assistance programs to—

''(A) eliminate redundant and duplicative requirements, including onerous application and ongoing reporting requirements;

''(B) ensure accountability of the programs to the intended purposes of such programs;

''(C) coordinate allocation of grant funds to avoid duplicative or inconsistent purchases by the recipients; and

''(D) make the programs more accessible and user friendly to applicants; and

''(3) submit the information and proposals under paragraphs (1) and (2) to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives.

''SEC. 2008. ACCOUNTABILITY.

''(a) REPORTS TO CONGRESS.—

''(1) FUNDING EFFICACY.—The Administrator shall submit to Congress, as a component of the annual Federal Preparedness Report required under section 652 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 752), an evaluation of the extent to which grants Administered by the Department, including the grants established by this title—

''(A) have contributed to the progress of State, local, and tribal governments in achieving target capabilities; and

''(B) have led to the reduction of risk nationally and in State, local, and tribal jurisdictions.

''(2) RISK ASSESSMENT.—

''(A) IN GENERAL.—For each fiscal year, the Administrator shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a detailed and comprehensive explanation of the methodology used to calculate risk and compute the allocation of funds under sections 2003 and 2004 of this title, including—

''(i) all variables included in the risk assessment and the weights assigned to each;

''(ii) an explanation of how each such variable, as weighted, correlates to risk, and the basis for concluding there is such a correlation; and

''(iii) any change in the methodology from the previous fiscal year, including changes in variables considered, weighting of those variables, and computational methods.

''(B) CLASSIFIED ANNEX.—The information required under subparagraph (A) shall be provided in unclassified form to the greatest extent possible, and may include a classified annex if necessary.

''(C) DEADLINE.—For each fiscal year, the information required under subparagraph (A) shall be provided on the earlier of—

''(i) October 31; or

''(ii) 30 days before the issuance of any program guidance for grants under sections 2003 and 2004.

''(b) REVIEWS AND AUDITS.—

''(1) DEPARTMENT REVIEW.—The Administrator shall conduct periodic reviews of grants made under this title to ensure that recipients allocate funds consistent with the guidelines established by the Department.

''(2) GOVERNMENT ACCOUNTABILITY OFFICE.—

''(A) ACCESS TO INFORMATION.—Each recipient of a grant under this title and the Department shall provide the Government Accountability Office with full access to information regarding the activities carried out under this title.

''(B) AUDITS AND REPORTS.—

''(i) AUDIT.—Not later than 12 months after the date of enactment of the Improving America's Security Act of 2007, and periodically thereafter, the Comptroller General of the United States shall conduct an audit of grants made under this title.

''(ii) REPORT.—The Comptroller General of the United States shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on—

''(I) the results of any audit conducted under clause (i), including an analysis of the purposes for which the grant funds authorized under this title are being spent; and

''(II) whether the grant recipients have allocated funding consistent with the State homeland security plan and the guidelines established by the Department.

''(3) AUDIT REQUIREMENT.—Grant recipients that expend $500,000 or more in grant funds received under this title during any fiscal year shall submit to the Administrator an organization-wide financial and compliance audit report in conformance with the requirements of chapter 75 of title 31, United States Code.

''(4) RECOVERY AUDITS.—The Secretary shall conduct a recovery audit (as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31, United States Code) for any grant administered by the Department with a total value of $1,000,000 or greater.

''(c) REMEDIES FOR NONCOMPLIANCE.—

''(1) IN GENERAL.—If the Administrator finds, after reasonable notice and an opportunity for a hearing, that a recipient of a grant under this title has failed to substantially comply with any provision of this title, or with any regulations or guidelines of the Department regarding eligible expenditures, the Administrator shall—

''(A) terminate any payment of grant funds to be made to the recipient under this title;

''(B) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not expended by the recipient in accordance with this title; or

''(C) limit the use of grant funds received under this title to programs, projects, or activities not affected by the failure to comply.

''(2) DURATION OF PENALTY.—The Administrator shall apply an appropriate penalty under paragraph (1) until such time as the Secretary determines that the grant recipient is in full compliance with this title or with applicable guidelines or regulations of the Department.

''(3) DIRECT FUNDING.—If a State fails to substantially comply with any provision of this title or with applicable guidelines or regulations of the Department, including failing to provide local or tribal governments with grant funds or resources purchased with grant funds in a timely fashion, a local or tribal government entitled to receive such grant funds or resources may petition the Administrator, at such time and in such manner as determined by the Administrator, to request that grant funds or resources be provided directly to the local or tribal government.

''SEC. 2009. AUDITING.

''(a) AUDITS OF GRANTS.—

''(1) IN GENERAL.—Not later than the date described in paragraph (2), and every 2 years thereafter, the Inspector General of the Department shall conduct an audit of each entity that receives a grant under the Urban Area Security Initiative, the State Homeland Security Grant Program, or the Emergency Management Performance Grant Program to evaluate the use of funds under such grant program by such entity.

''(2) TIMING.—The date described in this paragraph is the later of 2 years after—

''(A) the date of enactment of the Improving America's Security Act of 2007; and

''(B) the date that an entity first receives a grant under the Urban Area Security Initiative, the State Homeland Security Grant Program, or the Emergency Management Performance Grant Program, as the case may be.

''(3) CONTENTS.—Each audit under this subsection shall evaluate—

''(A) the use of funds under the relevant grant program by an entity during the 2 full fiscal years before the date of that audit;

''(B) whether funds under that grant program were used by that entity as required by law; and

''(C)(i) for each grant under the Urban Area Security Initiative or the State Homeland Security Grant Program, the extent to which funds under that grant were used to prepare for, protect against, respond to, or recover from acts of terrorism; and

''(ii) for each grant under the Emergency Management Performance Grant Program, the extent to which funds under that grant were used to prevent, prepare for, protect against, respond to, recover from, or mitigate against all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

''(4) PUBLIC AVAILABILITY ON WEBSITE.—The Inspector General of the Department shall make each audit under this subsection available on the website of the Inspector General.

''(5) REPORTING.—

''(A) IN GENERAL.—Not later than 2 years and 60 days after the date of enactment of the Improving America's Security Act of 2007, and annually thereafter, the Inspector General of the Department shall submit to Congress a consolidated report regarding the audits conducted under this subsection.

''(B) CONTENTS.—Each report submitted under this paragraph shall describe—

''(i)(I) for the first such report, the audits conducted under this subsection during the 2-year period beginning on the date of enactment of the Improving America's Security Act of 2007; and

''(II) for each subsequent such report, the audits conducted under this subsection during the fiscal year before the date of the submission of that report;

''(ii) whether funds under each grant audited during the period described in clause (i) that is applicable to such report were used as required by law; and

''(iii)(I) for grants under the Urban Area Security Initiative or the State Homeland Security Grant Program audited, the extent to which, during the period described in clause (i) that is applicable to such report, funds under such grants were used to prepare for, protect against, respond to, or recover from acts of terrorism; and

''(II) for grants under the Emergency Management Performance Grant Program audited, the extent to which funds under such grants were used during the period described in clause (i) applicable to such report to prevent, prepare for, protect against, respond to, recover from, or mitigate against all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

''(b) AUDIT OF OTHER PREPAREDNESS GRANTS.—

''(1) IN GENERAL.—Not later than the date described in paragraph (2), the Inspector General of the Department shall conduct an audit of each entity that receives a grant under the Urban Area Security Initiative, the State Homeland Security Grant Program, or the Emergency Management Performance Grant Program to evaluate the use by that entity of any grant for preparedness administered by the Department that was awarded before the date of enactment of the Improving America's Security Act of 2007.

''(2) TIMING.—The date described in this paragraph is the later of 2 years after—

''(A) the date of enactment of the Improving America's Security Act of 2007; and

''(B) the date that an entity first receives a grant under the Urban Area Security Initiative, the State Homeland Security Grant Program, or the Emergency Management Performance Grant Program, as the case may be.

''(3) CONTENTS.—Each audit under this subsection shall evaluate—

''(A) the use of funds by an entity under any grant for preparedness administered by the Department that was awarded before the date of enactment of the Improving America's Security Act of 2007;

''(B) whether funds under each such grant program were used by that entity as required by law; and

''(C) the extent to which such funds were used to enhance preparedness.

''(4) PUBLIC AVAILABILITY ON WEBSITE.—The Inspector General of the Department shall make each audit under this subsection available on the website of the Inspector General.

''(5) REPORTING.—

''(A) IN GENERAL.—Not later than 2 years and 60 days after the date of enactment of the Improving America's Security Act of 2007, and annually thereafter, the Inspector General of the Department shall submit to Congress a consolidated report regarding the audits conducted under this subsection.

''(B) CONTENTS.—Each report submitted under this paragraph shall describe—

''(i)(I) for the first such report, the audits conducted under this subsection during the 2-year period beginning on the date of enactment of the Improving America's Security Act of 2007; and

''(II) for each subsequent such report, the audits conducted under this subsection during the fiscal year before the date of the submission of that report;

''(ii) whether funds under each grant audited were used as required by law; and

''(iii) the extent to which funds under each grant audited were used to enhance preparedness.

''(c) FUNDING FOR AUDITS.—

''(1) IN GENERAL.—The Administrator shall withhold 1 percent of the total amount of each grant under the Urban Area Security Initiative, the State Homeland Security Grant Program, and the Emergency Management Performance Grant Program for audits under this section.

''(2) AVAILABILITY OF FUNDS.—The Administrator shall make amounts withheld under this subsection available as follows:

''(A) Amounts withheld from grants under the Urban Area Security Initiative shall be made available for audits under this section of entities receiving grants under the Urban Area Security Initiative.

''(B) Amounts withheld from grants under the State Homeland Security Grant Program shall be made available for audits under this section of entities receiving grants under the State Homeland Security Grant Program.

''(C) Amounts withheld from grants under the Emergency Management Performance Grant Program shall be made available for audits under this section of entities receiving grants under the Emergency Management Performance Grant Program.

''(d) DEFINITION.—In this section, the term 'Emergency Management Performance Grants Program' means the Emergency Management Performance Grants Program under section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 763; Public Law 109–295).

''SEC. 2010. SENSE OF THE SENATE.

''It is the sense of the Senate that, in order to ensure that the Nation is most effectively able to prevent, prepare for, protect against, respond to, recovery from, and mitigate against all hazards, including natural disasters, acts of terrorism, and other man-made disasters—

''(1) the Department should administer a coherent and coordinated system of both terrorism-focused and all-hazards grants, the essential building blocks of which include—

''(A) the Urban Area Security Initiative and State Homeland Security Grant Program established under this title (including funds dedicated to law enforcement terrorism prevention activities);

''(B) the Emergency Communications Operability and Interoperable Communications Grants established under section 1809; and

''(C) the Emergency Management Performance Grants Program authorized under section 662 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 763); and

''(2) to ensure a continuing and appropriate balance between terrorism-focused and all-hazards preparedness, the amounts appropriated for grants under the Urban Area Security Initiative, State Homeland Security Grant Program, and Emergency Management Performance Grants Program in any fiscal year should be in direct proportion to the amounts authorized for those programs for fiscal year 2008 under the amendments made by titles II and IV, as applicable, of the Improving America's Security Act of 2007.''.

SEC. 203. EQUIPMENT TECHNICAL ASSISTANCE TRAINING.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Homeland Security shall conduct no fewer than 7,500 trainings annually through the Domestic Preparedness Equipment Technical Assistance Program.

(b) REPORT.—The Secretary of Homeland Security shall report no later than September 30 annually to the Senate Homeland Security and Governmental Affairs Committee, the House Homeland Security Committee, Senate Appropriations Subcommittee on Homeland Security, and the House Appropriations Subcommittee on Homeland Security—

(a) on the number of trainings conducted that year through the Domestic Preparedness Equipment Technical Assistance Program; and

(b) if the number of trainings conducted that year is less than 7,500, an explanation of why fewer trainings were needed.

SEC. 204. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by redesignating title XVIII, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), as title XIX;

(2) by redesignating sections 1801 through 1806, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), as sections 1901 through 1906, respectively;

(3) in section 1904(a), as so redesignated, by striking ''section 1802'' and inserting ''section 1902''; and

(4) in section 1906, as so redesignated, by striking ''section 1802(a)'' each place that term appears and inserting ''section 1902(a)''.

(b) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by striking the items relating to title XVIII and sections 1801 through 1806, as added by the SAFE Port Act (Public Law 109–347; 120 Stat. 1884), and inserting the following:

''TITLE XIX—DOMESTIC NUCLEAR DETECTION OFFICE

''Sec. 1901. Domestic Nuclear Detection Office.
''Sec. 1902. Mission of Office.
''Sec. 1903. Hiring authority.
''Sec. 1904. Testing authority.
''Sec. 1905. Relationship to other Department entities and Federal agencies.
''Sec. 1906. Contracting and grant making authorities.

''TITLE XX—HOMELAND SECURITY GRANTS

''Sec. 2001. Definitions.
''Sec. 2002. Homeland Security Grant Program.
''Sec. 2003. Urban Area Security Initiative.
''Sec. 2004. State Homeland Security Grant Program.
''Sec. 2005. Terrorism prevention.
''Sec. 2006. Restrictions on use of funds.
''Sec. 2007. Administration and coordination.
''Sec. 2008. Accountability.
''Sec. 2009. Auditing.
''Sec. 2010. Sense of the Senate.''.

TITLE III—COMMUNICATIONS OPERABILITY AND INTEROPERABILITY

SEC. 301. DEDICATED FUNDING TO ACHIEVE EMERGENCY COMMUNICATIONS OPERABILITY AND INTEROPERABLE COMMUNICATIONS.

(a) EMERGENCY COMMUNICATIONS OPERABILITY AND INTEROPERABLE COMMUNICATIONS.—

(1) IN GENERAL.—Title XVIII of the Homeland Security Act of 2002 (6 U.S.C. 571 et seq.) (relating to emergency communications) is amended by adding at the end the following:

''SEC. 1809. EMERGENCY COMMUNICATIONS OPERABILITY AND INTEROPERABLE COMMUNICATIONS GRANTS.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Federal Emergency Management Agency.

''(2) EMERGENCY COMMUNICATIONS OPERABILITY.—The term 'emergency communications operability' means the ability to provide and maintain, throughout an emergency response operation, a continuous flow of information among emergency response providers, agencies, and government officers from multiple disciplines and jurisdictions and at all levels of government, in the event of a natural disaster, act of terrorism, or other man-made disaster, including where there has been significant damage to, or destruction of, critical infrastructure, including substantial loss of ordinary telecommunications infrastructure and sustained loss of electricity.

''(b) IN GENERAL.—The Administrator shall make grants to States for initiatives necessary to achieve, maintain, or enhance Statewide, regional, national and, as appropriate, international emergency communications operability and interoperable communications.

''(c) STATEWIDE INTEROPERABLE COMMUNICATIONS PLANS.—

''(1) SUBMISSION OF PLANS.—The Administrator shall require any State applying for a grant under this section to submit a Statewide Interoperable Communications Plan as described under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)).

''(2) COORDINATION AND CONSULTATION.—The Statewide plan submitted under paragraph (1) shall be developed—

''(A) in coordination with local and tribal governments, emergency response providers, and other relevant State officers; and

''(B) in consultation with and subject to appropriate comment by the applicable Regional Emergency Communications Coordination Working Group as described under section 1805.

''(3) APPROVAL.—The Administrator may not award a grant to a State unless the Administrator, in consultation with the Director for Emergency Communications, has approved the applicable Statewide plan.

''(4) REVISIONS.—A State may revise the applicable Statewide plan approved by the Administrator under this subsection, subject to approval of the revision by the Administrator.

''(d) CONSISTENCY.—The Administrator shall ensure that each grant is used to supplement and support, in a consistent and coordinated manner, any applicable State, regional, or urban area homeland security plan.

''(e) USE OF GRANT FUNDS.—Grants awarded under subsection (b) may be used for initiatives to achieve, maintain, or enhance emergency communications operability and interoperable communications, including—

''(1) Statewide or regional communications planning, including governance related activities;

''(2) system design and engineering;

''(3) system procurement and installation;

''(4) exercises;

''(5) modeling and simulation exercises for operational command and control functions;

''(6) technical assistance;

''(7) training; and

''(8) other appropriate activities determined by the Administrator to be integral to achieve, maintain, or enhance emergency communications operability and interoperable communications.

''(f) APPLICATION.—

''(1) IN GENERAL.—A State desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Administrator may reasonably require.

''(2) MINIMUM CONTENTS.—At a minimum, each application submitted under paragraph (1) shall—

''(A) identify the critical aspects of the communications life cycle, including planning, system design and engineering, procurement and installation, and training for which funding is requested;

''(B) describe how—

''(i) the proposed use of funds—

''(I) would be consistent with and address the goals in any applicable State, regional, or urban homeland security plan; and

''(II) unless the Administrator determines otherwise, are—

''(aa) consistent with the National Emergency Communications Plan under section 1802; and

''(bb) compatible with the national infrastructure and national voluntary consensus standards;

''(ii) the applicant intends to spend funds under the grant, to administer such funds, and to allocate such funds among participating local and tribal governments and emergency response providers;

''(iii) the State plans to allocate the grant funds on the basis of risk and effectiveness to regions, local and tribal governments to promote meaningful investments for achieving, maintaining, or enhancing emergency communications operability and interoperable communications;

''(iv) the State intends to address the emergency communications operability and interoperable communications needs at the city, county, regional, State, and interstate level; and

''(v) the State plans to emphasize regional planning and cooperation, both within the jurisdictional borders of that State and with neighboring States;

''(C) be consistent with the Statewide Interoperable Communications Plan required under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)); and

''(D) include a capital budget and timeline showing how the State intends to allocate and expend the grant funds.

''(g) AWARD OF GRANTS.—

''(1) CONSIDERATIONS.—In approving applications and awarding grants under this section, the Administrator shall consider—

''(A) the nature of the threat to the State from a natural disaster, act of terrorism, or other man-made disaster;

''(B) the location, risk, or vulnerability of critical infrastructure and key national assets, including the consequences from damage to critical infrastructure in nearby jurisdictions as a result of natural disasters, acts of terrorism, or other man-made disasters;

''(C) the size of the population of the State, including appropriate consideration of military, tourist, and commuter populations;

''(D) the population density of the State;

''(E) the extent to which grants will be utilized to implement emergency communications operability and interoperable communications solutions—

''(i) consistent with the National Emergency Communications Plan under section 1802 and compatible with the national infrastructure and national voluntary consensus standards; and

''(ii) more efficient and cost effective than current approaches;

''(F) the extent to which a grant would expedite the achievement, maintenance, or enhancement of emergency communications operability and interoperable communications in the State with Federal, State, local, and tribal governments;

''(G) the extent to which a State, given its financial capability, demonstrates its commitment to achieve, maintain, or enhance emergency communications operability and interoperable communications by supplementing Federal funds with non-Federal funds;

''(H) whether the State is on or near an international border;

''(I) whether the State encompasses an economically significant border crossing;

''(J) whether the State has a coastline bordering an ocean, a major waterway used for interstate commerce, or international waters;

''(K) the extent to which geographic barriers pose unusual obstacles to achieving, maintaining, or enhancing emergency communications operability or interoperable communications;

''(L) the threats, vulnerabilities, and consequences faced by the State related to at-risk sites or activities in nearby jurisdictions, including the need to respond to natural disasters, acts of terrorism, and other man-made disasters arising in those jurisdictions;

''(M) the need to achieve, maintain, or enhance nationwide emergency communications operability and interoperable communications, consistent with the National Emergency Communications Plan under section 1802;

''(N) whether the activity for which a grant is requested is being funded under another Federal or State emergency communications grant program; and

''(O) such other factors as are specified by the Administrator in writing.

''(2) REVIEW PANEL.—

''(A) IN GENERAL.—The Secretary shall establish a review panel under section 871(a) to assist in reviewing grant applications under this section.

''(B) RECOMMENDATIONS.—The review panel established under subparagraph (A) shall make recommendations to the Administrator regarding applications for grants under this section.

''(C) MEMBERSHIP.—The review panel established under subparagraph (A) shall include—

''(i) individuals with technical expertise in emergency communications operability and interoperable communications;

''(ii) emergency response providers; and

''(iii) other relevant State and local officers.

''(3) MINIMUM GRANT AMOUNTS.—The Administrator shall ensure that for each fiscal year—

''(A) no State receives less than an amount equal to 0.75 percent of the total funds appropriated for grants under this section; and

''(B) American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive no less than 0.25 percent of the amounts appropriated for grants under this section.

''(4) AVAILABILITY OF FUNDS.—Any grant funds awarded that may be used to support emergency communications operability or interoperable communications shall, as the Administrator may determine, remain available for up to 3 years, consistent with section 7303(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(e)).

''(h) STATE RESPONSIBILITIES.—

''(1) PASS-THROUGH OF FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—The Administrator shall determine a date by which a State that receives a grant shall obligate or otherwise make available to local and tribal governments and emergency response providers—

''(A) not less than 80 percent of the funds of the amount of the grant;

''(B) resources purchased with the grant funds having a value equal to not less than 80 percent of the total amount of the grant; or

''(C) grant funds combined with resources purchased with the grant funds having a value equal to not less than 80 percent of the total amount of the grant.

''(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL AND TRIBAL GOVERNMENTS.—Any State that receives a grant shall certify to the Administrator, by not later than 30 days after the date described under paragraph (1) with respect to the grant, that the State has made available for expenditure by local or tribal governments and emergency response providers the required amount of grant funds under paragraph (1).

''(3) REPORT ON GRANT SPENDING.—

''(A) IN GENERAL.—Any State that receives a grant shall submit a spending report to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may reasonably require.

''(B) MINIMUM CONTENTS.—At a minimum, each report under this paragraph shall include—

''(i) the amount, ultimate recipients, and dates of receipt of all funds received under the grant;

''(ii) the amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or under mutual aid agreements or other intrastate and interstate sharing arrangements, as applicable;

''(iii) how the funds were used by each ultimate recipient or beneficiary;

''(iv) the extent to which emergency communications operability and interoperable communications identified in the applicable Statewide plan and application have been achieved, maintained, or enhanced as the result of the expenditure of grant funds; and

''(v) the extent to which emergency communications operability and interoperable communications identified in the applicable Statewide plan and application remain unmet.

''(C) PUBLIC AVAILABILITY ON WEBSITE.—The Administrator shall make each report submitted under subparagraph (A) publicly available on the website of the Federal Emergency Management Agency. The Administrator may redact such information from the reports as the Administrator determines necessary to protect national security.

''(4) PENALTIES FOR REPORTING DELAY.—If a State fails to provide the information required by the Administrator under paragraph (3), the Administrator may—

''(A) reduce grant payments to the State from the portion of grant funds that are not required to be passed through under paragraph (1);

''(B) terminate payment of funds under the grant to the State, and transfer the appropriate portion of those funds directly to local and tribal governments and emergency response providers that were intended to receive funding under that grant; or

''(C) impose additional restrictions or burdens on the use of funds by the State under the grant, which may include—

''(i) prohibiting use of such funds to pay the grant-related expenses of the State; or

''(ii) requiring the State to distribute to local and tribal government and emergency response providers all or a portion of grant funds that are not required to be passed through under paragraph (1).

''(i) PROHIBITED USES.—Grants awarded under this section may not be used for recreational or social purposes.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

''(1) $400,000,000 for fiscal year 2008;

''(2) $500,000,000 for fiscal year 2009;

''(3) $600,000,000 for fiscal year 2010;

''(4) $800,000,000 for fiscal year 2011;

''(5) $1,000,000,000 for fiscal year 2012; and

''(6) such sums as necessary for each fiscal year thereafter.

''(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by a State for interim or long-term Internet Protocol-based interoperable solutions, notwithstanding compliance with the Project 25 standard.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents under section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by inserting after the item relating to section 1808 the following:

''Sec. 1809. Emergency communications operability and interoperable communications grants.''

(b) INTEROPERABLE COMMUNICATIONS PLANS.—Section 7303 of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 194) is amended—

(1) in subsection (f)—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(6) include information on the governance structure used to develop the plan, such as all agencies and organizations that participated in developing the plan and the scope and timeframe of the plan; and

''(7) describe the method by which multi-jurisdictional, multi-disciplinary input was provided from all regions of the jurisdiction and the process for continuing to incorporate such input.''; and

(2) in subsection (g)(1), by striking ''or video'' and inserting ''and video''.

(c) NATIONAL EMERGENCY COMMUNICATIONS PLAN.—Section 1802(c) of the Homeland Security Act of 2002 (6 U.S.C. 652(c)) is amended—

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

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

(3) by adding at the end the following:

''(10) set a date, including interim benchmarks, as appropriate, by which State, local, and tribal governments, Federal departments and agencies, emergency response providers, and the private sector will achieve interoperable communications as that term is defined under section 7303(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1).''.

SEC. 302. BORDER INTEROPERABILITY DEMONSTRATION PROJECT.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established in the Department an International Border Community Interoperable Communications

Demonstration Project (referred to in this section as ''demonstration project'').

(2) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select no fewer than 6 communities to participate in a demonstration project.

(3) LOCATION OF COMMUNITIES.—No fewer than 3 of the communities selected under paragraph (2) shall be located on the northern border of the United States and no fewer than 3 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

(b) PROGRAM REQUIREMENTS.—The demonstration projects shall—

(1) address the interoperable communications needs of emergency response providers and the National Guard;

(2) foster interoperable emergency communications systems—

(A) among Federal, State, local, and tribal government agencies in the United States involved in preventing or responding to a natural disaster, act of terrorism, or other manmade disaster; and

(B) with similar agencies in Canada or Mexico;

(3) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(4) foster the standardization of interoperable emergency communications equipment;

(5) identify solutions that will facilitate interoperable communications across national borders expeditiously;

(6) ensure that emergency response providers can communicate with each other and the public at disaster sites;

(7) provide training and equipment to enable emergency response providers to deal with threats and contingencies in a variety of environments;

(8) identify and secure appropriate joint-use equipment to ensure communications access; and

(9) identify solutions to facilitate communications between emergency response providers in communities of differing population densities.

(c) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in a demonstration project through the State, or States, in which each community is located.

(2) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under paragraph (1), a State shall make the funds available to the local and tribal governments and emergency response providers selected by the Secretary to participate in a demonstration project.

(d) REPORTING.—

(1) IN GENERAL.—Not later than December 31, 2007, and each year thereafter in which funds are appropriated for a demonstration project, 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 the demonstration projects.

(2) CONTENTS.—Each report under this subsection shall contain the following:

(A) The name and location of all communities involved in the demonstration project.

(B) The amount of funding provided to each State for the demonstration project.

(C) An evaluation of the usefulness of the demonstration project towards developing an effective interoperable communications system at the borders.

(D) The factors that were used in determining how to distribute the funds in a risk-based manner.

(E) The specific risks inherent to a border community that make interoperable communications more difficult than in non-border communities.

(F) The optimal ways to prioritize funding for interoperable communication systems based upon risk.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2007, 2008, and 2009 to carry out this section.

TITLE IV—EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM

SEC. 401. EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM.

Section 622 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 763) is amended to read as follows:

''SEC. 622. EMERGENCY MANAGEMENT PERFORMANCE GRANTS PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) POPULATION.—The term 'population' means population according to the most recent United States census population estimates available at the start of the relevant fiscal year.

''(2) STATE.—The term 'State' has the meaning given that term in section 101 of the Homeland Security Act of 2002 (6 U.S.C. 101).

''(b) IN GENERAL.—There is an Emergency Management Performance Grants Program to make grants to States to assist State, local, and tribal governments in preparing for, responding to, recovering from, and mitigating against all hazards.

''(c) APPLICATION.—

''(1) IN GENERAL.—Each State may apply for a grant under this section, and shall submit such information in support of an application as the Administrator may reasonably require.

''(2) ANNUAL APPLICATIONS.—Applicants for grants under this section shall apply or reapply on an annual basis for grants distributed under the program.

''(d) ALLOCATION.—Funds available under the Emergency Management Performance Grants Program shall be allocated as follows:

''(1) BASELINE AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), each State shall receive an amount equal to 0.75 percent of the total funds appropriated for grants under this section.

''(B) TERRITORIES.—American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each shall receive an amount equal to 0.25 percent of the amounts appropriated for grants under this section.

''(2) PER CAPITA ALLOCATION.—The funds remaining for grants under this section after allocation of the baseline amounts under paragraph (1) shall be allocated to each State in proportion to its population.

''(3) CONSISTENCY IN ALLOCATION.—Notwithstanding paragraphs (1) and (2), in any fiscal year in which the appropriation for grants under this section is equal to or greater than the appropriation for Emergency Management Performance Grants in fiscal year 2007, no State shall receive an amount under this section for that fiscal year less than the amount that State received in fiscal year 2007.

''(e) ALLOWABLE USES.—Grants awarded under this section may be used to prepare for, respond to, recover from, and mitigate against all hazards through—

''(1) any activity authorized under title VI or section 201 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq. and 5131);

''(2) any activity permitted under the Fiscal Year 2007 Program Guidance of the Department for Emergency Management Performance Grants; and

''(3) any other activity approved by the Administrator that will improve the emergency management capacity of State, local, or tribal governments to coordinate, integrate, and enhance preparedness for, response to, recovery from, or mitigation against all-hazards.

''(f) COST SHARING.—

''(1) IN GENERAL.—Except as provided in subsection (i), the Federal share of the costs of an activity carried out with a grant under this section shall not exceed 50 percent.

''(2) IN-KIND MATCHING.—Each recipient of a grant under this section may meet the matching requirement under paragraph (1) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made.

''(g) DISTRIBUTION OF FUNDS.—The Administrator shall not delay distribution of grant funds to States under this section solely because of delays in or timing of awards of other grants administered by the Department.

''(h) LOCAL AND TRIBAL GOVERNMENTS.—

''(1) IN GENERAL.—In allocating grant funds received under this section, a State shall take into account the needs of local and tribal governments.

''(2) INDIAN TRIBES.—States shall be responsible for allocating grant funds received under this section to tribal governments in order to help those tribal communities improve their capabilities in preparing for, responding to, recovering from, or mitigating against all hazards. Tribal governments shall be eligible for funding directly from the States, and shall not be required to seek funding from any local government.

''(i) EMERGENCY OPERATIONS CENTERS IMPROVEMENT PROGRAM.—

''(1) IN GENERAL.—The Administrator may award grants to States under this section to plan for, equip, upgrade, or construct all-hazards State, local, or regional emergency operations centers.

''(2) REQUIREMENTS.—No grant awards under this section (including for the activities specified under this subsection) shall be used for construction unless such construction occurs under terms and conditions consistent with the requirements under section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(j)(9).

''(3) COST SHARING.—

''(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a grant under this subsection shall not exceed 75 percent.

''(B) IN KIND MATCHING.—Each recipient of a grant for an activity under this section may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section—

''(1) for fiscal year 2007, such sums as are necessary;

''(2) for each of fiscal years 2008, 2009, and 2010, $913,180,500; and

''(3) for fiscal year 2011, and each fiscal year thereafter, such sums as are necessary.''.

TITLE V—ENHANCING SECURITY OF INTERNATIONAL TRAVEL

SEC. 501. MODERNIZATION OF THE VISA WAIVER PROGRAM.

(a) SHORT TITLE.—This section may be cited as the ''Secure Travel and Counterterrorism Partnership Act''.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should modernize the visa waiver program by simultaneously—

(A) enhancing program security requirements; and

(B) extending visa-free travel privileges to nationals of foreign countries that are allies in the war on terrorism; and

(2) the expansion described in paragraph (1) will—

(A) enhance bilateral cooperation on critical counterterrorism and information sharing initiatives;

(B) support and expand tourism and business opportunities to enhance long-term economic competitiveness; and

(C) strengthen bilateral relationships.

(c) DISCRETIONARY VISA WAIVER PROGRAM EXPANSION.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended by adding at the end the following:

''(8) NONIMMIGRANT VISA REFUSAL RATE FLEXIBILITY.—

''(A) CERTIFICATION.—On the date on which an air exit system is in place that can verify the departure of not less than 97 percent of foreign nationals that exit through airports of the United States, the Secretary of Homeland Security shall certify to Congress that such air exit system is in place.

''(B) WAIVER.—After certification by the Secretary under subparagraph (A), the Secretary of Homeland Security, in consultation with the Secretary of State, may waive the application of paragraph (2)(A) for a country—

''(i) if the country meets all security requirements of this section;

''(ii) if the Secretary of Homeland Security determines that the totality of the country's security risk mitigation measures provide assurance that the country's participation in the program would not compromise the law enforcement, security interests, or enforcement of the immigration laws of the United States;

''(iii) if there has been a sustained reduction in the rate of refusals for nonimmigrant visitor visas for nationals of the country and conditions exist to continue such reduction;

''(iv) the country cooperated with the Government of the United States on counterterrorism initiatives and information sharing before the date of its designation as a program country, and the Secretary of Homeland Security and the Secretary of State expect such cooperation will continue; and

''(v)(I) if the rate of refusals for nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was not more than 10 percent; or

''(II) if the visa overstay rate for the country for the previous full fiscal year does not exceed the maximum visa overstay rate, once it is established under subparagraph (C).

''(C) MAXIMUM VISA OVERSTAY RATE.—

''(i) REQUIREMENT TO ESTABLISH.—After certification by the Secretary under subparagraph (A), the Secretary of Homeland Security and the Secretary of State jointly shall use information from the air exit system referred to in subparagraph (A) to establish a maximum visa overstay rate for countries participating in the program pursuant to a waiver under subparagraph (B).

''(ii) VISA OVERSTAY RATE DEFINED.—In this paragraph the term 'visa overstay rate' means, with respect to a country, the ratio of—

''(I) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visitor visa for which the period of stay authorized by such visa ended during a fiscal year and who remained in the United States unlawfully beyond the such period of stay; to

''(II) the total number of nationals of that country who were admitted to the United States on the basis of a nonimmigrant visitor visa for which the period of stay authorized by such visa ended during such fiscal year.

''(iii) REPORT AND PUBLICATION.—Secretary of Homeland Security shall submit to Congress and publish in the Federal Register a notice of the maximum visa overstay rate proposed to be established under clause (i). Not less than 60 days after the date such notice is submitted and published, the Secretary shall issue a final maximum visa overstay rate.

''(9) DISCRETIONARY SECURITY-RELATED CONSIDERATIONS.—In determining whether to waive the application of paragraph (2)(A) for a country, pursuant to paragraph (8), the Secretary of Homeland Security, in consultation with the Secretary of State, shall take into consideration other factors affecting the security of the United States, including—

''(A) airport security standards in the country;

''(B) whether the country assists in the operation of an effective air marshal program;

''(C) the standards of passports and travel documents issued by the country; and

''(D) other security-related factors.''.

(d) SECURITY ENHANCEMENTS TO THE VISA WAIVER PROGRAM.—

(1) IN GENERAL.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(A) in subsection (a)—

(i) by striking ''Operators of aircraft'' and inserting the following:

''(10) ELECTRONIC TRANSMISSION OF IDENTIFICATION INFORMATION.—Operators of aircraft''; and

(ii) by adding at the end the following:

''(11) ELIGIBILITY DETERMINATION UNDER THE ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—Beginning on the date on which the electronic travel authorization system developed under subsection (h)(3) is fully operational, each alien traveling under the program shall, before applying for admission, electronically provide basic biographical information to the system. Upon review of such biographical information, the Secretary of Homeland Security shall determine whether the alien is eligible to travel to the United States under the program.'';

(B) in subsection (c), as amended by subsection (c) of this section—

(i) in paragraph (2)—

(I) by amending subparagraph (D) to read as follows:

''(D) REPORTING LOST AND STOLEN PASSPORTS.—The government of the country enters into an agreement with the United States to report, or make available through Interpol, to the United States Government information about the theft or loss of passports within a strict time limit and in a manner specified in the agreement.''; and

(II) by adding at the end the following:

''(E) REPATRIATION OF ALIENS.—The government of a country accepts for repatriation any citizen, former citizen, or national against whom a final executable order of removal is issued not later than 3 weeks after the issuance of the final order of removal. Nothing in this subparagraph creates any duty for the United States or any right for any alien with respect to removal or release. Nothing in this subparagraph gives rise to any cause of action or claim under this paragraph or any other law against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.

''(F) PASSENGER INFORMATION EXCHANGE.—The government of the country enters into an agreement with the United States to share information regarding whether nationals of that country traveling to the United States represent a threat to the security or welfare of the United States or its citizens.'';.

(ii) in paragraph (5)—

(I) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(II) in subparagraph (A)(i)—

(aa) in subclause (II), by striking ''and'' at the end;

(bb) in subclause (III), by striking the period at the end and inserting ''; and''; and

(cc) by adding at the end the following:

''(IV) shall submit to Congress a report regarding the implementation of the electronic travel authorization system under subsection (h)(3) and the participation of new countries in the program through a waiver under paragraph (8).''; and

(iii) by adding at the end the following:

''(10) TECHNICAL ASSISTANCE.—The Secretary of Homeland Security, in consultation with the Secretary of State, shall provide technical assistance to program countries to assist those countries in meeting the requirements under this section.'';

(C) in subsection (d), by adding at the end the following: ''The Secretary of Homeland Security may not waive any eligibility requirement under this section unless the Secretary notifies the appropriate congressional committees not later than 30 days before the effective date of such waiver.'';

(D) in subsection (f)(5), by striking ''of blank'' and inserting ''or loss of''; and

(E) in subsection (h), by adding at the end the following:

''(3) ELECTRONIC TRAVEL AUTHORIZATION SYSTEM.—

''(A) SYSTEM.—The Secretary of Homeland Security, in consultation with the Secretary of State, is authorized to develop and implement a fully automated electronic travel authorization system (referred to in this paragraph as the 'System') to collect such basic biographical information as the Secretary of Homeland Security determines to be necessary to determine, in advance of travel, the eligibility of an alien to travel to the United States under the program.

''(B) FEES.—The Secretary of Homeland Security may charge a fee for the use of the System, which shall be—

''(i) set at a level that will ensure recovery of the full costs of providing and administering the System; and

''(ii) available to pay the costs incurred to administer the System.

''(C) VALIDITY.—

''(i) PERIOD.—The Secretary of Homeland Security, in consultation with the Secretary of State shall prescribe regulations that provide for a period, not to exceed 3 years, during which a determination of eligibility to travel under the program will be valid. Notwithstanding any other provision under this section, the Secretary of Homeland Security may revoke any such determination at any time and for any reason.

''(ii) LIMITATION.—A determination that an alien is eligible to travel to the United States under the program is not a determination that the alien is admissible to the United States.

''(iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review an eligibility determination under the System.

''(D) REPORT.—Not later than 60 days before publishing notice regarding the implementation of the System in the Federal Register, the Secretary of Homeland Security shall submit a report regarding the implementation of the System to—

''(i) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(ii) the Committee on the Judiciary of the Senate;

''(iii) the Select Committee on Intelligence of the Senate;

''(iv) the Committee on Appropriations of the Senate;

''(v) the Committee on Homeland Security of the House of Representatives;

''(vi) the Committee on the Judiciary of the House of Representatives;

''(vii) the Permanent Select Committee on Intelligence of the House of Representatives; and

''(viii) the Committee on Appropriations of the House of Representatives.''.

(2) EFFECTIVE DATE.—Section 217(a)(11) of the Immigration and Nationality Act, as added by paragraph (1)(A)(ii) shall take effect on the date which is 60 days after the date on which the Secretary of Homeland Security publishes notice in the Federal Register of the requirement under such paragraph.

(e) EXIT SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall establish an exit system that records the departure on a flight leaving the United States of every alien participating in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187).

(2) SYSTEM REQUIREMENTS.—The system established under paragraph (1) shall—

(A) match biometric information of the alien against relevant watch lists and immigration information; and

(B) compare such biometric information against manifest information collected by air carriers on passengers departing the United States to confirm such individuals have departed the United States.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress that describes—

(A) the progress made in developing and deploying the exit system established under this subsection; and

(B) the procedures by which the Secretary will improve the manner of calculating the rates of nonimmigrants who violate the terms of their visas by remaining in the United States after the expiration of such visas.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 502. STRENGTHENING THE CAPABILITIES OF THE HUMAN SMUGGLING AND TRAFFICKING CENTER.

(a) IN GENERAL.—Section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777) is amended—

(1) in subsection (c)(1), by striking ''address'' and inserting ''integrate and disseminate intelligence and information related to'';

(2) by redesignating subsections (d) and (e) as subsections (g) and (h), respectively; and

(3) by inserting after subsection (c) the following new subsections:

''(d) DIRECTOR.—The Secretary of Homeland Security shall nominate an official of the Government of the United States to serve as the Director of the Center, in accordance with the requirements of the memorandum of understanding entitled the 'Human Smuggling and Trafficking Center (HSTC) Charter'.

''(e) STAFFING OF THE CENTER.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in cooperation with heads of other relevant agencies and departments, shall ensure that the Center is staffed with not fewer than 40 full-time equivalent positions, including, as appropriate, detailees from the following:

''(A) The Office of Intelligence and Analysis.

''(B) The Transportation Security Administration.

''(C) The United States Citizenship and Immigration Services.

''(D) The United States Customs and Border Protection.

''(E) The United States Coast Guard.

''(F) The United States Immigration and Customs Enforcement.

''(G) The Central Intelligence Agency.

''(H) The Department of Defense.

''(I) The Department of the Treasury.

''(J) The National Counterterrorism Center.

''(K) The National Security Agency.

''(L) The Department of Justice.

''(M) The Department of State.

''(N) Any other relevant agency or department.

''(2) EXPERTISE OF DETAILEES.—The Secretary of Homeland Security, in cooperation with the head of each agency, department, or other entity set out under paragraph (1), shall ensure that the detailees provided to the Center under paragraph (1) include an adequate number of personnel with experience in the area of—

''(A) consular affairs;

''(B) counterterrorism;

''(C) criminal law enforcement;

''(D) intelligence analysis;

''(E) prevention and detection of document fraud;

''(F) border inspection; or

''(G) immigration enforcement.

''(3) REIMBURSEMENT FOR DETAILEES.—To the extent that funds are available for such purpose, the Secretary of Homeland Security shall provide reimbursement to each agency or department that provides a detailee to the Center, in such amount or proportion as is appropriate for costs associated with the provision of such detailee, including costs for travel by, and benefits provided to, such detailee.

''(f) ADMINISTRATIVE SUPPORT AND FUNDING.—The Secretary of Homeland Security shall provide to the Center the administrative support and funding required for its maintenance, including funding for personnel, leasing of office space, supplies, equipment, technology, training, and travel expenses necessary for the Center to carry out its functions.''.

(b) REPORT.—Subsection (g) of section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777), as redesignated by subsection (a)(2), is amended—

(1) in the heading, by striking ''REPORT'' and inserting ''INITIAL REPORT'';

(2) by redesignating such subsection (g) as paragraph (1);

(3) by indenting such paragraph, as so designated, four ems from the left margin;

(4) by inserting before such paragraph, as so designated, the following:

''(g) REPORT.—''; and

(5) by inserting after such paragraph, as so designated, the following new paragraph:

''(2) FOLLOW-UP REPORT.—Not later than 180 days after the date of enactment of the Improving America's Security Act of 2007, the President shall transmit to Congress a report regarding the operation of the Center and the activities carried out by the Center, including a description of—

''(A) the roles and responsibilities of each agency or department that is participating in the Center;

''(B) the mechanisms used to share information among each such agency or department;

''(C) the staff provided to the Center by each such agency or department;

''(D) the type of information and reports being disseminated by the Center; and

''(E) any efforts by the Center to create a centralized Federal Government database to store information related to illicit travel of foreign nationals, including a description of any such database and of the manner in which information utilized in such a database would be collected, stored, and shared.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out section 7202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1777), as amended by this section, $20,000,000 for fiscal year 2008.

SEC. 503. ENHANCEMENTS TO THE TERRORIST TRAVEL PROGRAM.

Section 7215 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 123) is amended to read as follows:

''SEC. 7215. TERRORIST TRAVEL PROGRAM.

''(a) REQUIREMENT TO ESTABLISH.—Not later than 90 days after the date of enactment of the Improving America's Security Act of 2007, the Secretary of Homeland Security, in consultation with the Director of the National Counterterrorism Center and consistent with the strategy developed under section 7201, shall establish a program to oversee the implementation of the Secretary's responsibilities with respect to terrorist travel.

''(b) HEAD OF THE PROGRAM.—The Secretary of Homeland Security shall designate an official of the Department of Homeland Security to be responsible for carrying out the program. Such official shall be—

''(1) the Assistant Secretary for Policy of the Department of Homeland Security; or

''(2) an official appointed by the Secretary who reports directly to the Secretary.

''(c) DUTIES.—The official designated under subsection (b) shall assist the Secretary of Homeland Security in improving the Department's ability to prevent terrorists from entering the United States or remaining in the United States undetected by—

''(1) developing relevant strategies and policies;

''(2) reviewing the effectiveness of existing programs and recommending improvements, if necessary;

''(3) making recommendations on budget requests and on the allocation of funding and personnel;

''(4) ensuring effective coordination, with respect to policies, programs, planning, operations, and dissemination of intelligence and information related to terrorist travel—

''(A) among appropriate subdivisions of the Department of Homeland Security, as determined by the Secretary and including—

''(i) the United States Customs and Border Protection;

''(ii) the United States Immigration and Customs Enforcement;

''(iii) the United States Citizenship and Immigration Services;

''(iv) the Transportation Security Administration; and

''(v) the United States Coast Guard; and

''(B) between the Department of Homeland Security and other appropriate Federal agencies; and

''(5) serving as the Secretary's primary point of contact with the National Counterterrorism Center for implementing initiatives related to terrorist travel and ensuring that the recommendations of the Center related to terrorist travel are carried out by the Department.

''(d) REPORT.—Not later than 180 days after the date of enactment of the Improving America's Security Act of 2007, the Secretary of Homeland Security 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 of this section.''.

SEC. 504. ENHANCED DRIVER'S LICENSE.

Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended—

(1) in subparagraph (B)—

(A) in clause (vi), by striking ''and'' at the end;

(B) in clause (vii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(viii) the signing of a memorandum of agreement to initiate a pilot program with not less than 1 State to determine if an enhanced driver's license, which is machine-readable and tamper proof, not valid for certification of citizenship for any purpose other than admission into the United States from Canada, and issued by such State to an individual, may permit the individual to use the driver's license to meet the documentation requirements under subparagraph (A) for entry into the United States from Canada at the land and sea ports of entry.''; and

(2) by adding at the end the following:

''(C) REPORT.—Not later than 180 days after the initiation of the pilot program described in subparagraph (B)(viii), the Secretary of Homeland Security and Secretary of State shall submit to the appropriate congressional committees a report, which includes—

''(i) an analysis of the impact of the pilot program on national security;

''(ii) recommendations on how to expand the pilot program to other States;

''(iii) any appropriate statutory changes to facilitate the expansion of the pilot program to additional States and to citizens of Canada;

''(iv) a plan to scan individuals participating in the pilot program against United States terrorist watch lists; and

''(v) a recommendation for the type of machine-readable technology that should be used in enhanced driver's licenses, based on individual privacy considerations and the costs and feasibility of incorporating any new technology into existing driver's licenses.''.

SEC. 505. WESTERN HEMISPHERE TRAVEL INITIATIVE.

Before publishing a final rule in the Federal Register, the Secretary shall conduct—

(1) a complete cost-benefit analysis of the Western Hemisphere Travel Initiative, authorized under section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note); and

(2) a study of the mechanisms by which the execution fee for a PASS Card could be reduced, considering the potential increase in the number of applications.

SEC. 506. MODEL PORTS-OF-ENTRY.

(a) IN GENERAL.—The Secretary of Homeland Security shall—

(1) establish a model ports-of-entry program for the purpose of providing a more efficient and welcoming international arrival process in order to facilitate and promote business and tourist travel to the United States, while also improving security; and

(2) implement the program initially at the 20 United States international airports with the greatest average annual number of arriving foreign visitors.

(b) PROGRAM ELEMENTS.—The program shall include—

(1) enhanced queue management in the Federal Inspection Services area leading up to primary inspection;

(2) assistance for foreign travelers once they have been admitted to the United States, in consultation, as appropriate, with relevant governmental and nongovernmental entities; and

(3) instructional videos, in English and such other languages as the Secretary determines appropriate, in the Federal Inspection Services area that explain the United States inspection process and feature national, regional, or local welcome videos.

(c) ADDITIONAL CUSTOMS AND BORDER PROTECTION OFFICERS FOR HIGH VOLUME PORTS.—Subject to the availability of appropriations, before the end of fiscal year 2008 the Secretary of Homeland Security shall employ not less than an additional 200 Customs and Border Protection officers to address staff shortages at the 20 United States international airports with the highest average number of foreign visitors arriving annually.

TITLE VI—PRIVACY AND CIVIL LIBERTIES MATTERS

SEC. 601. MODIFICATION OF AUTHORITIES RELATING TO PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) MODIFICATION OF AUTHORITIES.—Section 1061 of the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 5 U.S.C. 601 note) is amended to read as follows:

''SEC. 1061. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

''(a) IN GENERAL.—There is established within the Executive Office of the President a Privacy and Civil Liberties Oversight Board (referred to in this section as the 'Board').

''(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

''(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

''(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

''(c) PURPOSE.—The Board shall—

''(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

''(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

''(d) FUNCTIONS.—

''(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

''(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under subsections (d) and (f) of section 1016;

''(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under subsections (d) and (f) of section 1016;

''(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

''(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has established—

''(i) that the need for the power is balanced with the need to protect privacy and civil liberties;

''(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

''(iii) that there are adequate guidelines and oversight to properly confine its use.

''(2) OVERSIGHT.—The Board shall continually review—

''(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

''(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines issued or developed under subsections (d) and (f) of section 1016 and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

''(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

''(i) appropriately protect privacy and civil liberties; and

''(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

''(3) RELATIONSHIP WITH PRIVACY AND CIVIL LIBERTIES OFFICERS.—The Board shall—

''(A) review and assess reports and other information from privacy officers and civil liberties officers under section 1062;

''(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

''(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

''(4) TESTIMONY.—The members of the Board shall appear and testify before Congress upon request.

''(e) REPORTS.—

''(1) IN GENERAL.—The Board shall—

''(A) receive and review reports from privacy officers and civil liberties officers under section 1062; and

''(B) periodically submit, not less than semiannually, reports—

''(i)(I) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

''(II) to the President; and

''(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

''(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

''(A) a description of the major activities of the Board during the preceding period;

''(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

''(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d);

''(D) each proposal reviewed by the Board under subsection (d)(1) that—

''(i) the Board advised against implementation; and

''(ii) notwithstanding such advice, actions were taken to implement; and

''(E) for the preceding period, any requests submitted under subsection (g)(1)(D) for the issuance of subpoenas that were modified or denied by the Attorney General.

''(f) INFORMING THE PUBLIC.—The Board shall—

''(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

''(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

''(g) ACCESS TO INFORMATION.—

''(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

''(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

''(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

''(C) request information or assistance from any State, tribal, or local government; and

''(D) at the direction of a majority of the members of the Board, submit a written request to the Attorney General of the United States that the Attorney General require, by subpoena, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

''(2) REVIEW OF SUBPOENA REQUEST.—

''(A) IN GENERAL.—Not later than 30 days after the date of receipt of a request by the Board under paragraph (1)(D), the Attorney General shall—

''(i) issue the subpoena as requested; or

''(ii) provide the Board, in writing, with an explanation of the grounds on which the subpoena request has been modified or denied.

''(B) NOTIFICATION.—If a subpoena request is modified or denied under subparagraph (A)(ii), the Attorney General shall, not later than 30 days after the date of that modification or denial, notify the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

''(3) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued pursuant to paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

''(4) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

''(h) MEMBERSHIP.—

''(1) MEMBERS.—The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) QUALIFICATIONS.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

''(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

''(4) TERM.—Each member of the Board shall serve a term of 6 years, except that—

''(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

''(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

''(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

''(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

''(C) the members first appointed under this subsection after the date of enactment of the Improving America's Security Act of 2007 shall serve terms of two, three, four, five, and six years, respectively, with the term of each such member to be designated by the President.

''(5) QUORUM AND MEETINGS.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

''(i) COMPENSATION AND TRAVEL EXPENSES.—

''(1) COMPENSATION.—

''(A) CHAIRMAN.—The chairman of the Board shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

''(B) MEMBERS.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

''(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

''(j) STAFF.—

''(1) APPOINTMENT AND COMPENSATION.—The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(2) DETAILEES.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

''(3) CONSULTANT SERVICES.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

''(k) SECURITY CLEARANCES.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

''(l) TREATMENT AS AGENCY, NOT AS ADVISORY COMMITTEE.—The Board—

''(1) is an agency (as defined in section 551(1) of title 5, United States Code); and

''(2) is not an advisory committee (as defined in section 3(2) of the Federal Advisory Committee Act (5 U.S.C. App.)).

''(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section amounts as follows:

''(1) For fiscal year 2008, $5,000,000.

''(2) For fiscal year 2009, $6,650,000.

''(3) For fiscal year 2010, $8,300,000.

''(4) For fiscal year 2011, $10,000,000.

''(5) For fiscal year 2012, and each fiscal year thereafter, such sums as may be necessary.''.

(b) CONTINUATION OF SERVICE OF CURRENT MEMBERS OF PRIVACY AND CIVIL LIBERTIES BOARD.—The members of the Privacy and Civil Liberties Oversight Board as of the date of enactment of this Act may continue to serve as members of that Board after that date, and to carry out the functions and exercise the powers of that Board as specified in section 1061 of the National Security Intelligence Reform Act of 2004 (as amended by subsection (a)), until—

(1) in the case of any individual serving as a member of the Board under an appointment by the President, by and with the advice and consent of the Senate, the expiration of a term designated by the President under section 1061(h)(4)(C) of such Act (as so amended);

(2) in the case of any individual serving as a member of the Board other than under an appointment by the President, by and with the advice and consent of the Senate, the confirmation or rejection by the Senate of that member's nomination to the Board under such section 1061 (as so amended), except that no such individual may serve as a member under this paragraph—

(A) for more than 60 days when Congress is in session unless a nomination of that individual to be a member of the Board has been submitted to the Senate; or

(B) after the adjournment sine die of the session of the Senate in which such nomination is submitted; or

(3) the appointment of members of the Board under such section 1061 (as so amended), except that no member may serve under this paragraph—

(A) for more than 60 days when Congress is in session unless a nomination to fill the position on the Board shall have been submitted to the Senate; or

(B) after the adjournment sine die of the session of the Senate in which such nomination is submitted.

SEC. 602. PRIVACY AND CIVIL LIBERTIES OFFICERS.

(a) IN GENERAL.—Section 1062 of the National Security Intelligence Reform Act of 2004 (title I of Public Law 108–458; 118 Stat. 3688) is amended to read as follows:

''SEC. 1062. PRIVACY AND CIVIL LIBERTIES OFFICERS.

''(a) DESIGNATION AND FUNCTIONS.—The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board under section 1061 to be appropriate for coverage under this section shall designate not less than 1 senior officer to—

''(1) assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

''(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

''(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

''(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—

''(A) that the need for the power is balanced with the need to protect privacy and civil liberties;

''(B) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

''(C) that there are adequate guidelines and oversight to properly confine its use.

''(b) EXCEPTION TO DESIGNATION AUTHORITY.—

''(1) PRIVACY OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Privacy and Civil Liberties Oversight Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

''(2) CIVIL LIBERTIES OFFICERS.—In any department, agency, or element referred to in subsection (a) or designated by the Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

''(c) SUPERVISION AND COORDINATION.—Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

''(1) report directly to the head of the department, agency, or element concerned; and

''(2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

''(d) AGENCY COOPERATION.—The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

''(1) has the information, material, and resources necessary to fulfill the functions of such officer;

''(2) is advised of proposed policy changes;

''(3) is consulted by decision makers; and

''(4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

''(e) REPRISAL FOR MAKING COMPLAINT.—No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

''(f) PERIODIC REPORTS.—

''(1) IN GENERAL.—The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than quarterly, submit a report on the activities of such officers—

''(A)(i) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

''(ii) to the head of such department, agency, or element; and

''(iii) to the Privacy and Civil Liberties Oversight Board; and

''(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

''(2) CONTENTS.—Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

''(A) information on the number and types of reviews undertaken;

''(B) the type of advice provided and the response given to such advice;

''(C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

''(D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

''(g) INFORMING THE PUBLIC.—Each privacy officer and civil liberties officer shall—

''(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

''(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

''(h) SAVINGS CLAUSE.—Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended by striking the item relating to section 1062 and inserting the following new item:

''Sec. 1062. Privacy and civil liberties officers.''.

SEC. 603. DEPARTMENT PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) by inserting ''(a) APPOINTMENT AND RESPONSIBILITIES.—'' before ''The Secretary''; and

(2) by adding at the end the following:

''(b) AUTHORITY TO INVESTIGATE.—

''(1) IN GENERAL.—The senior official appointed under subsection (a) may—

''(A) have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that relate to programs and operations with respect to the responsibilities of the senior official under this section;

''(B) make such investigations and reports relating to the administration of the programs and operations of the Department that are necessary or desirable as determined by that senior official;

''(C) subject to the approval of the Secretary, require by subpoena the production, by any person other than a Federal agency, of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to performance of the responsibilities of the senior official under this section; and

''(D) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary to performance of the responsibilities of the senior official under this section.

''(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under paragraph (1)(C) shall, in the case of contumacy or refusal to obey, be enforceable by order of any appropriate United States district court.

''(3) EFFECT OF OATHS.—Any oath, affirmation, or affidavit administered or taken under paragraph (1)(D) by or before an employee of the Privacy Office designated for that purpose by the senior official appointed under subsection (a) shall have the same force and effect as if administered or taken by or before an officer having a seal of office.

''(c) SUPERVISION AND COORDINATION.—

''(1) IN GENERAL.—The senior official appointed under subsection (a) shall—

''(A) report to, and be under the general supervision of, the Secretary; and

''(B) coordinate activities with the Inspector General of the Department in order to avoid duplication of effort.

''(2) NOTIFICATION TO CONGRESS ON REMOVAL.—If the Secretary removes the senior official appointed under subsection (a) or transfers that senior official to another position or location within the Department, the Secretary shall—

''(A) promptly submit a written notification of the removal or transfer to Houses of Congress; and

''(B) include in any such notification the reasons for the removal or transfer.

''(d) REPORTS BY SENIOR OFFICIAL TO CONGRESS.—The senior official appointed under subsection (a) shall—

''(1) submit reports directly to the Congress regarding performance of the responsibilities of the senior official under this section, without any prior comment or amendment by the Secretary, Deputy Secretary, or any other officer or employee of the Department or the Office of Management and Budget; and

''(2) inform the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives not later than—

''(A) 30 days after the Secretary disapproves the senior official's request for a

subpoena under subsection (b)(1)(C) or the Secretary substantively modifies the requested subpoena; or

''(B) 45 days after the senior official's request for a subpoena under subsection (b)(1)(C), if that subpoena has not either been approved or disapproved by the Secretary.''.

SEC. 604. FEDERAL AGENCY DATA MINING REPORTING ACT OF 2007.

(a) SHORT TITLE.—This section may be cited as the ''Federal Agency Data Mining Reporting Act of 2007''.

(b) DEFINITIONS.—In this section:

(1) DATA MINING.—The term ''data mining'' means a program involving pattern-based queries, searches, or other analyses of 1 or more electronic databases, where—

(A) a department or agency of the Federal Government, or a non-Federal entity acting on behalf of the Federal Government, is conducting the queries, searches, or other analyses to discover or locate a predictive pattern or anomaly indicative of terrorist or criminal activity on the part of any individual or individuals;

(B) the queries, searches, or other analyses are not subject-based and do not use personal identifiers of a specific individual, or inputs associated with a specific individual or group of individuals, to retrieve information from the database or databases; and

(C) the purpose of the queries, searches, or other analyses is not solely—

(i) the detection of fraud, waste, or abuse in a Government agency or program; or

(ii) the security of a Government computer system.

(2) DATABASE.—The term ''database'' does not include telephone directories, news reporting, information publicly available to any member of the public without payment of a fee, or databases of judicial and administrative opinions or other legal research sources.

(c) REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.—

(1) IN GENERAL.—Subsection (d) of this section shall have no force or effect.

(2) REPORTS.—

(A) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be produced in coordination with the privacy officer of that department or agency, if applicable, and shall be made available to the public, except for an annex described in subparagraph (C).

(B) CONTENT OF REPORT.—Each report submitted under subparagraph (A) shall include, for each activity to use or develop data mining, the following information:

(i) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(ii) A thorough description of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(iii) A thorough description of the data sources that are being or will be used.

(iv) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(v) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(vi) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used in conjunction with the data mining activity, to the extent applicable in the context of the data mining activity.

(vii) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such data mining activity in order to—

(I) protect the privacy and due process rights of individuals, such as redress procedures; and

(II) ensure that only accurate and complete information is collected, reviewed, gathered, analyzed, or used, and guard against any harmful consequences of potential inaccuracies.

(C) ANNEX.—

(i) IN GENERAL.—A report under subparagraph (A) shall include in an annex any necessary—

(I) classified information;

(II) law enforcement sensitive information;

(III) proprietary business information; or

(IV) trade secrets (as that term is defined in section 1839 of title 18, United States Code).

(ii) AVAILABILITY.—Any annex described in clause (i)—

(I) shall be available, as appropriate, and consistent with the National Security Act of 1947 (50 U.S.C. 401 et seq.), to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives; and

(II) shall not be made available to the public.

(D) TIME FOR REPORT.—Each report required under subparagraph (A) shall be—

(i) submitted not later than 180 days after the date of enactment of this Act; and

(ii) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under subparagraph (A).

(d) REPORTS ON DATA MINING ACTIVITIES BY FEDERAL AGENCIES.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency of the Federal Government that is engaged in any activity to use or develop data mining shall submit a report to Congress on all such activities of the department or agency under the jurisdiction of that official. The report shall be made available to the public, except for a classified annex described paragraph (2)(H).

(2) CONTENT OF REPORT.—Each report submitted under paragraph (1) shall include, for each activity to use or develop data mining, the following information:

(A) A thorough description of the data mining activity, its goals, and, where appropriate, the target dates for the deployment of the data mining activity.

(B) A thorough description, without revealing existing patents, proprietary business processes, trade secrets, and intelligence sources and methods, of the data mining technology that is being used or will be used, including the basis for determining whether a particular pattern or anomaly is indicative of terrorist or criminal activity.

(C) A thorough description of the data sources that are being or will be used.

(D) An assessment of the efficacy or likely efficacy of the data mining activity in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the data mining activity.

(E) An assessment of the impact or likely impact of the implementation of the data mining activity on the privacy and civil liberties of individuals, including a thorough description of the actions that are being taken or will be taken with regard to the property, privacy, or other rights or privileges of any individual or individuals as a result of the implementation of the data mining activity.

(F) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data mining activity.

(G) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data mining in order to—

(i) protect the privacy and due process rights of individuals, such as redress procedures; and

(ii) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(H) Any necessary classified information in an annex that shall be available, as appropriate, to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

(3) TIME FOR REPORT.—Each report required under paragraph (1) shall be—

(A) submitted not later than 180 days after the date of enactment of this Act; and

(B) updated not less frequently than annually thereafter, to include any activity to use or develop data mining engaged in after the date of the prior report submitted under paragraph (1).

TITLE VII—ENHANCED DEFENSES AGAINST WEAPONS OF MASS DESTRUCTION

SEC. 701. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. et seq.) is amended by adding at the end the following:

''SEC. 316. NATIONAL BIOSURVEILLANCE INTEGRATION CENTER.

''(a) DEFINITIONS.—In this section—

''(1) the term 'biological event of national significance' means—

''(A) an act of terrorism that uses a biological agent, toxin, or other product derived from a biological agent; or

''(B) a naturally-occurring outbreak of an infectious disease that may result in a national epidemic;

''(2) the term 'Member Agencies' means the departments and agencies described in subsection (d)(1);

''(3) the term 'NBIC' means the National Biosurveillance Integration Center established under subsection (b);

''(4) the term 'NBIS' means the National Biosurveillance Integration System established under subsection (b); and

''(5) the term 'Privacy Officer' means the Privacy Officer appointed under section 222.

''(b) ESTABLISHMENT.—The Secretary shall establish, operate, and maintain a National Biosurveillance Integration Center, headed

by a Directing Officer, under an existing office or directorate of the Department, subject to the availability of appropriations, to oversee development and operation of the National Biosurveillance Integration System.

''(c) PRIMARY MISSION.—The primary mission of the NBIC is to enhance the capability of the Federal Government to—

''(1) rapidly identify, characterize, localize, and track a biological event of national significance by integrating and analyzing data from human health, animal, plant, food, and environmental monitoring systems (both national and international); and

''(2) disseminate alerts and other information regarding such data analysis to Member Agencies and, in consultation with relevant member agencies, to agencies of State, local, and tribal governments, as appropriate, to enhance the ability of such agencies to respond to a biological event of national significance.

''(d) REQUIREMENTS.—The NBIC shall design the NBIS to detect, as early as possible, a biological event of national significance that presents a risk to the United States or the infrastructure or key assets of the United States, including—

''(1) if a Federal department or agency, at the discretion of the head of that department or agency, has entered a memorandum of understanding regarding participation in the NBIC, consolidating data from all relevant surveillance systems maintained by that department or agency to detect biological events of national significance across human, animal, and plant species;

''(2) seeking private sources of surveillance, both foreign and domestic, when such sources would enhance coverage of critical surveillance gaps;

''(3) using an information technology system that uses the best available statistical and other analytical tools to identify and characterize biological events of national significance in as close to real-time as is practicable;

''(4) providing the infrastructure for such integration, including information technology systems and space, and support for personnel from Member Agencies with sufficient expertise to enable analysis and interpretation of data;

''(5) working with Member Agencies to create information technology systems that use the minimum amount of patient data necessary and consider patient confidentiality and privacy issues at all stages of development and apprise the Privacy Officer of such efforts; and

''(6) alerting relevant Member Agencies and, in consultation with relevant Member Agencies, public health agencies of State, local, and tribal governments regarding any incident that could develop into a biological event of national significance.

''(e) RESPONSIBILITIES OF THE SECRETARY.—

''(1) IN GENERAL.—The Secretary shall—

''(A) ensure that the NBIC is fully operational not later than September 30, 2008;

''(B) not later than 180 days after the date of enactment of this section and on the date that the NBIC is fully operational, submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on the progress of making the NBIC operational addressing the efforts of the NBIC to integrate surveillance efforts of Federal, State, local, and tribal governments.

''(f) RESPONSIBILITIES OF THE DIRECTING OFFICER OF THE NBIC.—

''(1) IN GENERAL.—The Directing Officer of the NBIC shall—

''(A) establish an entity to perform all operations and assessments related to the NBIS;

''(B) on an ongoing basis, monitor the availability and appropriateness of contributing surveillance systems and solicit new surveillance systems that would enhance biological situational awareness or overall performance of the NBIS;

''(C) on an ongoing basis, review and seek to improve the statistical and other analytical methods utilized by the NBIS;

''(D) receive and consider other relevant homeland security information, as appropriate; and

''(E) provide technical assistance, as appropriate, to all Federal, regional, State, local, and tribal government entities and private sector entities that contribute data relevant to the operation of the NBIS.

''(2) ASSESSMENTS.—The Directing Officer of the NBIC shall—

''(A) on an ongoing basis, evaluate available data for evidence of a biological event of national significance; and

''(B) integrate homeland security information with NBIS data to provide overall situational awareness and determine whether a biological event of national significance has occurred.

''(3) INFORMATION SHARING.—

''(A) IN GENERAL.—The Directing Officer of the NBIC shall—

''(i) establish a method of real-time communication with the National Operations Center, to be known as the Biological Common Operating Picture;

''(ii) in the event that a biological event of national significance is detected, notify the Secretary and disseminate results of NBIS assessments related to that biological event of national significance to appropriate Federal response entities and, in consultation with relevant member agencies, regional, State, local, and tribal governmental response entities in a timely manner;

''(iii) provide any report on NBIS assessments to Member Agencies and, in consultation with relevant member agencies, any affected regional, State, local, or tribal government, and any private sector entity considered appropriate that may enhance the mission of such Member Agencies, governments, or entities or the ability of the Nation to respond to biological events of national significance; and

''(iv) share NBIS incident or situational awareness reports, and other relevant information, consistent with the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of that environment.

''(B) COORDINATION.—The Directing Officer of the NBIC shall implement the activities described in subparagraph (A) in coordination with the program manager for the information sharing environment of the Office of the Director of National Intelligence, the Under Secretary for Intelligence and Analysis, and other offices or agencies of the Federal Government, as appropriate.

''(g) RESPONSIBILITIES OF THE NBIC MEMBER AGENCIES.—

''(1) IN GENERAL.—Each Member Agency shall—

''(A) use its best efforts to integrate biosurveillance information into the NBIS, with the goal of promoting information sharing between Federal, State, local, and tribal governments to detect biological events of national significance;

''(B) participate in the formation and maintenance of the Biological Common Operating Picture to facilitate timely and accurate detection and reporting;

''(C) connect the biosurveillance data systems of that Member Agency to the NBIC data system under mutually-agreed protocols that maintain patient confidentiality and privacy;

''(D) participate in the formation of strategy and policy for the operation of the NBIC and its information sharing; and

''(E) provide personnel to the NBIC under an interagency personnel agreement and consider the qualifications of such personnel necessary to provide human, animal, and environmental data analysis and interpretation support to the NBIC.

''(h) ADMINISTRATIVE AUTHORITIES.—

''(1) HIRING OF EXPERTS.—The Directing Officer of the NBIC shall hire individuals with the necessary expertise to develop and operate the NBIS.

''(2) DETAIL OF PERSONNEL.—Upon the request of the Directing Officer of the NBIC, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Department to assist the NBIC in carrying out this section.

''(i) JOINT BIOSURVEILLANCE LEADERSHIP COUNCIL.—The Directing Officer of the NBIC shall—

''(1) establish an interagency coordination council to facilitate interagency cooperation and to advise the Directing Officer of the NBIC regarding recommendations to enhance the biosurveillance capabilities of the Department; and

''(2) invite Member Agencies to serve on such council.

''(j) RELATIONSHIP TO OTHER DEPARTMENTS AND AGENCIES.—The authority of the Directing Officer of the NBIC under this section shall not affect any authority or responsibility of any other department or agency of the Federal Government with respect to biosurveillance activities under any program administered by that department or agency.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

(b) 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 315 the following:

''Sec. 316. National Biosurveillance Integration Center.''.

SEC. 702. BIOSURVEILLANCE EFFORTS.

The Comptroller General of the United States shall submit a report to Congress describing—

(1) the state of Federal, State, local, and tribal government biosurveillance efforts as of the date of such report;

(2) any duplication of effort at the Federal, State, local, or tribal government level to create biosurveillance systems; and

(3) the integration of biosurveillance systems to allow the maximizing of biosurveillance resources and the expertise of Federal, State, local, and tribal governments to benefit public health.

SEC. 703. INTERAGENCY COORDINATION TO ENHANCE DEFENSES AGAINST NUCLEAR AND RADIOLOGICAL WEAPONS OF MASS DESTRUCTION.

(a) IN GENERAL.—The Homeland Security Act of 2002 is amended by adding after section 1906, as redesignated by section 203 of this Act, the following:

''SEC. 1907. JOINT ANNUAL REVIEW OF GLOBAL NUCLEAR DETECTION ARCHITECTURE.

''(a) ANNUAL REVIEW.—

''(1) IN GENERAL.—The Secretary, the Attorney General, the Secretary of State, the

Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence shall jointly ensure interagency coordination on the development and implementation of the global nuclear detection architecture by ensuring that, not less frequently than once each year—

''(A) each relevant agency, office, or entity—

''(i) assesses its involvement, support, and participation in the development, revision, and implementation of the global nuclear detection architecture;

''(ii) examines and evaluates components of the global nuclear detection architecture (including associated strategies and acquisition plans) that are related to the operations of that agency, office, or entity, to determine whether such components incorporate and address current threat assessments, scenarios, or intelligence analyses developed by the Director of National Intelligence or other agencies regarding threats related to nuclear or radiological weapons of mass destruction; and

''(B) each agency, office, or entity deploying or operating any technology acquired by the Office—

''(i) evaluates the deployment and operation of that technology by that agency, office, or entity;

''(ii) identifies detection performance deficiencies and operational or technical deficiencies in that technology; and

''(iii) assesses the capacity of that agency, office, or entity to implement the responsibilities of that agency, office, or entity under the global nuclear detection architecture.

''(2) TECHNOLOGY.—Not less frequently than once each year, the Secretary shall examine and evaluate the development, assessment, and acquisition of technology by the Office.

''(b) ANNUAL REPORT.—

''(1) IN GENERAL.—Not later than March 31 of each year, the Secretary, in coordination with the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence, shall submit a report regarding the compliance of such officials with this section and the results of the reviews required under subsection (a) to—

''(A) the President;

''(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(C) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Homeland Security of the House of Representatives.

''(2) FORM.—Each report submitted under paragraph (1) shall be submitted in unclassified form to the maximum extent practicable, but may include a classified annex.

''(c) DEFINITION.—In this section, the term 'global nuclear detection architecture' means the global nuclear detection architecture developed under section 1902.''.

(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 note) is amended by inserting after the item relating to section 1906, as added by section 203 of this Act, the following:

''Sec. 1907. Joint annual review of global nuclear detection architecture.''.

TITLE VIII—PRIVATE SECTOR PREPAREDNESS

SEC. 801. DEFINITIONS.

(a) IN GENERAL.—In this title, the term ''voluntary national preparedness standards'' has the meaning given that term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this Act.

(b) HOMELAND SECURITY ACT OF 2002.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17) The term 'voluntary national preparedness standards' means a common set of criteria for preparedness, disaster management, emergency management, and business continuity programs, such as the American National Standards Institute's National Fire Protection Association Standard on Disaster/Emergency Management and Business Continuity Programs (ANSI/NFPA 1600).''.

SEC. 802. RESPONSIBILITIES OF THE PRIVATE SECTOR OFFICE OF THE DEPARTMENT.

(a) IN GENERAL.—Section 102(f) of the Homeland Security Act of 2002 (6 U.S.C. 112(f)) is amended—

(1) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(2) by inserting after paragraph (7) the following:

''(8) providing information to the private sector regarding voluntary national preparedness standards and the business justification for preparedness and promoting to the private sector the adoption of voluntary national preparedness standards;''.

(b) PRIVATE SECTOR ADVISORY COUNCILS.—Section 102(f)(4) of the Homeland Security Act of 2002 (6 U.S.C. 112(f)(4)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(C) advise the Secretary on private sector preparedness issues, including effective methods for—

''(i) promoting voluntary national preparedness standards to the private sector;

''(ii) assisting the private sector in adopting voluntary national preparedness standards; and

''(iii) developing and implementing the accreditation and certification program under section 522;''.

SEC. 803. VOLUNTARY NATIONAL PREPAREDNESS STANDARDS COMPLIANCE; ACCREDITATION AND CERTIFICATION PROGRAM FOR THE PRIVATE SECTOR.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

''SEC. 522. VOLUNTARY NATIONAL PREPAREDNESS STANDARDS COMPLIANCE; ACCREDITATION AND CERTIFICATION PROGRAM FOR THE PRIVATE SECTOR.

''(a) ACCREDITATION AND CERTIFICATION PROGRAM.—Not later than 120 days after the date of enactment of this section, the Secretary, in consultation with representatives of the organizations that coordinate or facilitate the development of and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), and appropriate private sector advisory groups such as sector coordinating councils and information sharing and analysis centers, shall—

''(1) support the development, promulgating, and updating, as necessary, of voluntary national preparedness standards; and

''(2) develop, implement, and promote a program to certify the preparedness of private sector entities.

''(b) PROGRAM ELEMENTS.—

''(1) IN GENERAL.—

''(A) PROGRAM.—The program developed and implemented under this section shall assess whether a private sector entity complies with voluntary national preparedness standards.

''(B) GUIDELINES.—In developing the program under this section, the Secretary shall develop guidelines for the accreditation and certification processes established under this section.

''(2) STANDARDS.—The Secretary, in consultation with representatives of organizations that coordinate or facilitate the development of and use of voluntary consensus standards representatives of appropriate voluntary consensus standards development organizations, each private sector advisory council created under section 102(f)(4), and appropriate private sector advisory groups such as sector coordinating councils and information sharing and analysis centers—

''(A) shall adopt appropriate voluntary national preparedness standards that promote preparedness, which shall be used in the accreditation and certification program under this section; and

''(B) after the adoption of standards under subparagraph (A), may adopt additional voluntary national preparedness standards or modify or discontinue the use of voluntary national preparedness standards for the accreditation and certification program, as necessary and appropriate to promote preparedness.

''(3) TIERING.—The certification program developed under this section may use a multiple-tiered system to rate the preparedness of a private sector entity.

''(4) SMALL BUSINESS CONCERNS.—The Secretary and any selected entity shall establish separate classifications and methods of certification for small business concerns (as that term is defined in section 3 of the Small Business Act (15 U.S.C. 632)) for the program under this section.

''(5) CONSIDERATIONS.—In developing and implementing the program under this section, the Secretary shall—

''(A) consider the unique nature of various sectors within the private sector, including preparedness, business continuity standards, or best practices, established—

''(i) under any other provision of Federal law; or

''(ii) by any sector-specific agency, as defined under Homeland Security Presidential Directive-7; and

''(B) coordinate the program, as appropriate, with—

''(i) other Department private sector related programs; and

''(ii) preparedness and business continuity programs in other Federal agencies.

''(c) ACCREDITATION AND CERTIFICATION PROCESSES.—

''(1) AGREEMENT.—

''(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Secretary shall enter into 1 or more agreements with the American National Standards Institute or other similarly qualified nongovernmental or other private sector entities to carry out accreditations and oversee the certification process under this section.

''(B) CONTENTS.—Any selected entity shall manage the accreditation process and oversee the certification process in accordance with the program established under this section and accredit qualified third parties to carry out the certification program established under this section.

''(2) PROCEDURES AND REQUIREMENTS FOR ACCREDITATION AND CERTIFICATION.—

''(A) IN GENERAL.—The selected entities shall collaborate to develop procedures and requirements for the accreditation and certification processes under this section, in accordance with the program established under this section and guidelines developed under subsection (b)(1)(B).

''(B) CONTENTS AND USE.—The procedures and requirements developed under subparagraph (A) shall—

''(i) ensure reasonable uniformity in the accreditation and certification processes if there is more than 1 selected entity; and

''(ii) be used by any selected entity in conducting accreditations and overseeing the certification process under this section.

''(C) DISAGREEMENT.—Any disagreement among selected entities in developing procedures under subparagraph (A) shall be resolved by the Secretary.

''(3) DESIGNATION.—A selected entity may accredit any qualified third party to carry out the certification process under this section.

''(4) THIRD PARTIES.—To be accredited under paragraph (3), a third party shall—

''(A) demonstrate that the third party has the ability to certify private sector entities in accordance with the procedures and requirements developed under paragraph (2);

''(B) agree to perform certifications in accordance with such procedures and requirements;

''(C) agree not to have any beneficial interest in or any direct or indirect control over—

''(i) a private sector entity for which that third party conducts a certification under this section; or

''(ii) any organization that provides preparedness consulting services to private sector entities;

''(D) agree not to have any other conflict of interest with respect to any private sector entity for which that third party conducts a certification under this section;

''(E) maintain liability insurance coverage at policy limits in accordance with the requirements developed under paragraph (2); and

''(F) enter into an agreement with the selected entity accrediting that third party to protect any proprietary information of a private sector entity obtained under this section.

''(5) MONITORING.—

''(A) IN GENERAL.—The Secretary and any selected entity shall regularly monitor and inspect the operations of any third party conducting certifications under this section to ensure that third party is complying with the procedures and requirements established under paragraph (2) and all other applicable requirements.

''(B) REVOCATION.—If the Secretary or any selected entity determines that a third party is not meeting the procedures or requirements established under paragraph (2), the appropriate selected entity shall—

''(i) revoke the accreditation of that third party to conduct certifications under this section; and

''(ii) review any certification conducted by that third party, as necessary and appropriate.

''(d) ANNUAL REVIEW.—

''(1) IN GENERAL.—The Secretary, in consultation with representatives of the organizations that coordinate or facilitate the development of and use of voluntary consensus standards, appropriate voluntary consensus standards development organizations, and each private sector advisory council created under section 102(f)(4), shall annually review the voluntary accreditation and certification program established under this section to ensure the effectiveness of such program and make improvements and adjustments to the program as necessary and appropriate.

''(2) REVIEW OF STANDARDS.—Each review under paragraph (1) shall include an assessment of the voluntary national preparedness standards used in the program under this section.

''(e) COMPLIANCE BY ENTITIES SEEKING CERTIFICATION.—Any entity seeking certification under this section shall comply with all applicable statutes, regulations, directives, policies, and industry codes of practice in meeting certification requirements.

''(f) VOLUNTARY PARTICIPATION.—Certification under this section shall be voluntary for any private sector entity.

''(g) PUBLIC LISTING.—The Secretary shall maintain and make public a listing of any private sector entity certified as being in compliance with the program established under this section, if that private sector entity consents to such listing.

''(h) DEFINITION.—In this section, the term 'selected entity' means any entity entering an agreement with the Secretary under subsection (c)(1)(A).''.

(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 521 the following:

''Sec. 522. Voluntary national preparedness standards compliance; accreditation and certification program for the private sector.''.

SEC. 804. SENSE OF CONGRESS REGARDING PROMOTING AN INTERNATIONAL STANDARD FOR PRIVATE SECTOR PREPAREDNESS.

It is the sense of Congress that the Secretary or any entity designated under section 522(c)(1)(A) of the Homeland Security Act of 2002, as added by this Act, should promote, where appropriate, efforts to develop a consistent international standard for private sector preparedness.

SEC. 805. DEMONSTRATION PROJECT.

Not later than 120 days after the date of enactment of this Act, the Secretary shall—

(1) establish a demonstration project to conduct demonstrations of security management systems that—

(A) shall use a management system standards approach; and

(B) may be integrated into quality, safety, environmental and other internationally adopted management systems; and

(2) enter into 1 or more agreements with a private sector entity to conduct such demonstrations of security management systems.

SEC. 806. REPORT TO CONGRESS.

Not later than 180 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 detailing—

(1) any action taken to implement this title or an amendment made by this title; and

(2) the status, as of the date of that report, of the implementation of this title and the amendments made by this title.

SEC. 807. RULE OF CONSTRUCTION.

Nothing in this title may be construed to supercede any preparedness or business continuity standards, requirements, or best practices established—

(1) under any other provision of Federal law; or

(2) by any sector-specific agency, as defined under Homeland Security Presidential Directive-7.

TITLE IX—TRANSPORTATION SECURITY PLANNING AND INFORMATION SHARING

SEC. 901. TRANSPORTATION SECURITY STRATEGIC PLANNING.

(a) IN GENERAL.—Section 114(t)(1)(B) of title 49, United States Code, is amended to read as follows:

''(B) transportation modal and intermodal security plans addressing risks, threats, and vulnerabilities for aviation, bridge, tunnel, commuter rail and ferry, highway, maritime, pipeline, rail, mass transit, over-the-road bus, and other public transportation infrastructure assets.''.

(b) CONTENTS OF THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—Section 114(t)(3) of such title is amended—

(1) in subparagraph (B), by inserting '', based on risk assessments conducted by the Secretary of Homeland Security (including assessments conducted under section 1421 or 1503 of the Improving America's Security Act of 2007 or any provision of law amended by such title),'' after ''risk based priorities'';

(2) in subparagraph (D)—

(A) by striking ''and local'' and inserting '', local, and tribal''; and

(B) by striking ''private sector cooperation and participation'' and inserting ''cooperation and participation by private sector entities'';

(3) in subparagraph (E)—

(A) by striking ''response'' and inserting ''prevention, response,''; and

(B) by inserting ''and threatened and executed acts of terrorism outside the United States to the extent such acts affect United States transportation systems'' before the period at the end;

(4) in subparagraph (F), by adding at the end the following: ''Transportation security research and development projects shall be based, to the extent practicable, on such prioritization. Nothing in the preceding sentence shall be construed to require the termination of any research or development project initiated by the Secretary of Homeland Security before the date of enactment of the Improving America's Security Act of 2007.''; and

(5) by adding at the end the following:

''(G) Short- and long-term budget recommendations for Federal transportation security programs, which reflect the priorities of the National Strategy for Transportation Security.

''(H) Methods for linking the individual transportation modal security plans and the programs contained therein, and a plan for addressing the security needs of intermodal transportation hubs.

''(I) Transportation security modal and intermodal plans, including operational recovery plans to expedite, to the maximum extent practicable, the return to operation of an adversely affected transportation system following a major terrorist attack on that system or another catastrophe. These plans shall be coordinated with the resumption of trade protocols required under section 202 of the SAFE Port Act (6 U.S.C. 942).''.

(c) PERIODIC PROGRESS REPORTS.—Section 114(t)(4) of such title is amended—

(1) in subparagraph (C)—

(A) in clause (i), by inserting '', including the transportation modal security plans'' before the period at the end; and

(B) by striking clause (ii) and inserting the following:

''(ii) CONTENT.—Each progress report submitted under this subparagraph shall include the following:

''(I) Recommendations for improving and implementing the National Strategy for Transportation Security and the transportation modal and intermodal security plans that the Secretary of Homeland Security, in consultation with the Secretary of Transportation, considers appropriate.

''(II) An accounting of all grants for transportation security, including grants for research and development, distributed by the Secretary of Homeland Security in the most recently concluded fiscal year and a description of how such grants accomplished the goals of the National Strategy for Transportation Security.

''(III) An accounting of all—

''(aa) funds requested in the President's budget submitted pursuant to section 1105 of title 31 for the most recently concluded fiscal year for transportation security, by mode; and

''(bb) personnel working on transportation security by mode, including the number of contractors.

''(iii) WRITTEN EXPLANATION OF TRANSPORTATION SECURITY ACTIVITIES NOT DELINEATED IN THE NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—At the end of each year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any activity inconsistent with, or not clearly delineated in, the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.''; and

(2) in subparagraph (E), by striking ''Select''.

(d) PRIORITY STATUS.—Section 114(t)(5)(B) of such title is amended—

(1) in clause (iii), by striking ''and'' at the end;

(2) by redesignating clause (iv) as clause (v); and

(3) by inserting after clause (iii) the following:

''(iv) the transportation sector specific plan required under Homeland Security Presidential Directive-7; and''.

(e) COORDINATION AND PLAN DISTRIBUTION.—Section 114(t) of such title is amended by adding at the end the following:

''(6) COORDINATION.—In carrying out the responsibilities under this section, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall consult, as appropriate, with Federal, State, and local agencies, tribal governments, private sector entities (including nonprofit employee labor organizations), institutions of higher learning, and other entities.

''(7) PLAN DISTRIBUTION.—The Secretary of Homeland Security shall make available an unclassified version of the National Strategy for Transportation Security, including its component transportation modal security plans, to Federal, State, regional, local and tribal authorities, transportation system owners or operators, private sector stakeholders (including non-profit employee labor organizations), institutions of higher learning, and other appropriate entities.''.

SEC. 902. TRANSPORTATION SECURITY INFORMATION SHARING.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by adding at the end the following:

''(u) TRANSPORTATION SECURITY INFORMATION SHARING PLAN.—

''(1) ESTABLISHMENT OF PLAN.—The Secretary of Homeland Security, in consultation with the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), the Secretary of Transportation, and public and private stakeholders, shall establish a Transportation Security Information Sharing Plan. In establishing the plan, the Secretary shall gather input on the development of the Plan from private and public stakeholders and the program manager of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485).

''(2) PURPOSE OF PLAN.—The Plan shall promote sharing of transportation security information between the Department of Homeland Security and public and private stakeholders.

''(3) CONTENT OF PLAN.—The Plan shall include—

''(A) a description of how intelligence analysts within the Department of Homeland Security will coordinate their activities within the Department and with other Federal, State, and local agencies, and tribal governments, including coordination with existing modal information sharing centers and the center established under section 1506 of the Improving America's Security Act of 2007;

''(B) the establishment of a point of contact, which may be a single point of contact, for each mode of transportation within the Department of Homeland Security for its sharing of transportation security information with public and private stakeholders, including an explanation and justification to the appropriate congressional committees if the point of contact established pursuant to this subparagraph differs from the agency within the Department that has the primary authority, or has been delegated such authority by the Secretary, to regulate the security of that transportation mode;

''(C) a reasonable deadline by which the Plan will be implemented; and

''(D) a description of resource needs for fulfilling the Plan.

''(4) COORDINATION WITH THE INFORMATION SHARING ENVIRONMENT.—The Plan shall be—

''(A) implemented in coordination with the program manager for the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485); and

''(B) consistent with the establishment of that environment, and any policies, guidelines, procedures, instructions, or standards established by the President or the program manager for the implementation and management of that environment.

''(5) REPORTS TO CONGRESS.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees a report containing the Plan.

''(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall submit to the appropriate congressional committees an annual report on updates to and the implementation of the Plan.

''(6) SURVEY.—

''(A) IN GENERAL.—The Secretary shall conduct a biennial survey of the satisfaction of the recipients of transportation intelligence reports disseminated under the Plan, and include the results of the survey as part of the annual report to be submitted under paragraph (5)(B).

''(B) INFORMATION SOUGHT.—The survey conducted under subparagraph (A) shall seek information about the quality, speed, regularity, and classification of the transportation security information products disseminated from the Department of Homeland Security to public and private stakeholders.

''(7) SECURITY CLEARANCES.—The Secretary shall, to the greatest extent practicable, take steps to expedite the security clearances needed for public and private stakeholders to receive and obtain access to classified information distributed under this section as appropriate.

''(8) CLASSIFICATION OF MATERIAL.—The Secretary, to the greatest extent practicable, shall provide public and private stakeholders with specific and actionable information in an unclassified format.

''(9) DEFINITIONS.—In this subsection:

''(A) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' has the meaning given that term in subsection (t), but shall also include the Senate Committee on Banking, Housing, and Urban Development.

''(B) PLAN.—The term 'Plan' means the Transportation Security Information Sharing Plan established under paragraph (1).

''(C) PUBLIC AND PRIVATE STAKEHOLDERS.—The term 'public and private stakeholders' means Federal, State, and local agencies, tribal governments, and appropriate private entities.

''(D) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(E) TRANSPORTATION SECURITY INFORMATION.—The term 'transportation security information' means information relating to the risks to transportation modes, including aviation, bridge and tunnel, mass transit, passenger and freight rail, ferry, highway, maritime, pipeline, and over-the-road bus transportation.''.

(b) CONGRESSIONAL OVERSIGHT OF SECURITY ASSURANCE FOR PUBLIC AND PRIVATE STAKEHOLDERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall provide a semiannual report to the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Development of the Senate and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives that—

(A) identifies the job titles and descriptions of the persons with whom such information is to be shared under the transportation security information sharing plan established under section 114(u) of title 49, United States Code, as added by this Act, and explains the reason for sharing the information with such persons;

(B) describes the measures the Secretary has taken, under section 114(u)(7) of that title, or otherwise, to ensure proper treatment and security for any classified information to be shared with the public and private stakeholders under the plan; and

(C) explains the reason for the denial of transportation security information to any stakeholder who had previously received such information.

(2) NO REPORT REQUIRED IF NO CHANGES IN STAKEHOLDERS.—The Secretary is not required to provide a semiannual report under paragraph (1) if no stakeholders have been added to or removed from the group of persons with whom transportation security information is shared under the plan since the end of the period covered by the last preceding semiannual report.

SEC. 903. TRANSPORTATION SECURITY ADMINISTRATION PERSONNEL MANAGEMENT.

(a) TSA EMPLOYEE DEFINED.—In this section, the term ''TSA employee'' means an individual who holds—

(1) any position which was transferred (or the incumbent of which was transferred) from the Transportation Security Administration of the Department of Transportation to the Department by section 403 of the Homeland Security Act of 2002 (6 U.S.C. 203); or

(2) any other position within the Department the duties and responsibilities of which include carrying out 1 or more of the functions that were transferred from the Transportation Security Administration of the Department of Transportation to the Secretary by such section.

(b) ELIMINATION OF CERTAIN PERSONNEL MANAGEMENT AUTHORITIES.—Effective 90 days after the date of enactment of this Act—

(1) section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is repealed and any authority of the

Secretary derived from such section 111(d) shall terminate;

(2) any personnel management system, to the extent established or modified under such section 111(d) (including by the Secretary through the exercise of any authority derived from such section 111(d)) shall terminate; and

(3) the Secretary shall ensure that all TSA employees are subject to the same personnel management system as described in paragraph (1) or (2) of subsection (e).

(c) ESTABLISHMENT OF CERTAIN UNIFORMITY REQUIREMENTS.—

(1) SYSTEM UNDER SUBSECTION (e)(1).—The Secretary shall, with respect to any personnel management system described in subsection (e)(1), take any measures which may be necessary to provide for the uniform treatment of all TSA employees under such system.

(2) SYSTEM UNDER SUBSECTION (e)(2).—Section 9701(b) of title 5, United States Code, is amended—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(6) provide for the uniform treatment of all TSA employees (as that term is defined in section 903 of the Improving America's Security Act of 2007).''.

(3) EFFECTIVE DATE.—

(A) PROVISIONS RELATING TO A SYSTEM UNDER SUBSECTION (e)(1).—Any measures necessary to carry out paragraph (1) shall take effect 90 days after the date of enactment of this Act.

(B) PROVISIONS RELATING TO A SYSTEM UNDER SUBSECTION (e)(2).—Any measures necessary to carry out the amendments made by paragraph (2) shall take effect on the later of 90 days after the date of enactment of this Act and the commencement date of the system involved.

(d) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States 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—

(A) the pay system that applies with respect to TSA employees as of the date of enactment of this Act; and

(B) any changes to such system which would be made under any regulations which have been prescribed under chapter 97 of title 5, United States Code.

(2) MATTERS FOR INCLUSION.—The report required under paragraph (1) shall include—

(A) a brief description of each pay system described in paragraphs (1)(A) and (1)(B), respectively;

(B) a comparison of the relative advantages and disadvantages of each of those pay systems; and

(C) such other matters as the Comptroller General determines appropriate.

(e) PERSONNEL MANAGEMENT SYSTEM DESCRIBED.—A personnel management system described in this subsection is—

(1) any personnel management system, to the extent that it applies with respect to any TSA employees under section 114(n) of title 49, United States Code; and

(2) any human resources management system, established under chapter 97 of title 5, United States Code.

SEC. 904. APPEAL RIGHTS AND EMPLOYEE ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.

(a) APPEAL RIGHTS FOR SCREENERS.—

(1) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking ''Notwithstanding'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) notwithstanding''; and

(B) by adding at the end the following:

''(2) RIGHT TO APPEAL ADVERSE ACTION.—The provisions of chapters 75 and 77 of title 5, United States Code, shall apply to an individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code.

''(3) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—The Under Secretary of Transportation shall provide a collaborative, integrated, employee engagement mechanism, subject to chapter 71 of title 5, United States Code, at every airport to address workplace issues, except that collective bargaining over working conditions shall not extend to pay. Employees shall not have the right to engage in a strike and the Under Secretary may take whatever actions may be necessary to carry out the agency mission during emergencies, newly imminent threats, or intelligence indicating a newly imminent emergency risk. No properly classified information shall be divulged in any non-authorized forum.''.

(2) CONFORMING AMENDMENTS.—Section 111(d)(1) of the Aviation and Transportation Security Act, as amended by paragraph (1)(A), is amended—

(A) by striking ''Under Secretary of Transportation for Security'' and inserting ''Administrator of the Transportation Security Administration''; and

(B) by striking ''Under Secretary'' each place such appears and inserting ''Administrator''.

(b) WHISTLEBLOWER PROTECTIONS.—Section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) is amended, in the matter preceding paragraph (1), by inserting '', or section 111(d) of the Aviation and Transportation Security Act,'' after ''this Act''.

(c) REPORT TO CONGRESS.—

(1) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States 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—

(A) the pay system that applies with respect to TSA employees as of the date of enactment of this Act; and

(B) any changes to such system which would be made under any regulations which have been prescribed under chapter 97 of title 5, United States Code.

(2) MATTERS FOR INCLUSION.—The report required under paragraph (1) shall include—

(A) a brief description of each pay system described in paragraphs (1)(A) and (1)(B), respectively;

(B) a comparison of the relative advantages and disadvantages of each of those pay systems; and

(C) such other matters as the Comptroller General determines appropriate.

(d) This section shall take effect one day after the date of enactment.

SEC. 905. PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.

Section 232(c) of the Security and Accountability For Every Port Act (6 U.S.C. 982(c)) is amended—

(1) by striking ''Not later'' and inserting the following:

''(1) IN GENERAL.—Not later'';

(2) by resetting the left margin of the text thereof 2 ems from the left margin; and

(3) by inserting at the end thereof the following:

''(2) PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.—

''(A) IN GENERAL.—The first report under paragraph (1) shall include an initial plan to scan 100 percent of the cargo containers destined for the United States before such containers arrive in the United States.

''(B) PLAN CONTENTS.—The plan under subparagraph (A) shall include—

''(i) specific annual benchmarks for the percentage of cargo containers destined for the United States that are scanned at a foreign port;

''(ii) annual increases in the benchmarks described in clause (i) until 100 percent of the cargo containers destined for the United States are scanned before arriving in the United States, unless the Secretary explains in writing to the appropriate congressional committees that inadequate progress has been made in meeting the criteria in section 232(b) for expanded scanning to be practical or feasible;

''(iii) an analysis of how to effectively incorporate existing programs, including the Container Security Initiative established by section 205 and the Customs-Trade Partnership Against Terrorism established by subtitle B, to reach the benchmarks described in clause (i); and

''(iv) an analysis of the scanning equipment, personnel, and technology necessary to reach the goal of 100 percent scanning of cargo containers.

''(C) SUBSEQUENT REPORTS.—Each report under paragraph (1) after the initial report shall include an assessment of the progress toward implementing the plan under subparagraph (A).''.

TITLE X—INCIDENT COMMAND SYSTEM

SEC. 1001. PREIDENTIFYING AND EVALUATING MULTIJURISDICTIONAL FACILITIES TO STRENGTHEN INCIDENT COMMAND; PRIVATE SECTOR PREPAREDNESS.

Section 507(c)(2) of the Homeland Security Act of 2002 (6 U.S.C. 317(c)(2)) is amended—

(1) in subparagraph (H), by striking ''and'' at the end;

(2) by redesignating subparagraph (I) as subparagraph (K); and

(3) by inserting after subparagraph (H) the following:

''(I) coordinating with the private sector to help ensure private sector preparedness for natural disasters, acts of terrorism, or other man-made disasters;

''(J) assisting State, local, or tribal governments, where appropriate, to preidentify and evaluate suitable sites where a multijurisdictional incident command system can be quickly established and operated from, if the need for such a system arises; and''.

SEC. 1002. CREDENTIALING AND TYPING TO STRENGTHEN INCIDENT COMMAND.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 331 et seq.) is amended—

(1) by striking section 510 and inserting the following:

''SEC. 510. CREDENTIALING AND TYPING.

''(a) CREDENTIALING.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'credential' means to provide documentation that can authenticate and verify the qualifications and identity of managers of incidents, emergency response providers, and other appropriate personnel, including by ensuring that such personnel possess a minimum common level of training, experience, physical and medical fitness, and capability appropriate for their position;

''(B) the term 'credentialing' means evaluating an individual's qualifications for a specific position under guidelines created under

this subsection and assigning such individual a qualification under the standards developed under this subsection; and

''(C) the term 'credentialed' means an individual has been evaluated for a specific position under the guidelines created under this subsection.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, emergency response providers, and the organizations that represent such providers, to collaborate on establishing nationwide standards for credentialing all personnel who are likely to respond to a natural disaster, act of terrorism, or other man-made disaster.

''(B) CONTENTS.—The standards developed under subparagraph (A) shall—

''(i) include the minimum professional qualifications, certifications, training, and education requirements for specific emergency response functional positions that are applicable to Federal, State, local, and tribal government;

''(ii) be compatible with the National Incident Management System; and

''(iii) be consistent with standards for advance registration for health professions volunteers under section 319I of the Public Health Services Act (42 U.S.C. 247d–7b).

''(C) TIMEFRAME.—The Administrator shall develop standards under subparagraph (A) not later than 6 months after the date of enactment of the Improving America's Security Act of 2007.

''(3) CREDENTIALING OF DEPARTMENT PERSONNEL.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Improving America's Security Act of 2007, the Secretary and the Administrator shall ensure that all personnel of the Department (including temporary personnel and individuals in the Surge Capacity Force established under section 624 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 711)) who are likely to respond to a natural disaster, act of terrorism, or other man-made disaster are credentialed.

''(B) STRATEGIC HUMAN CAPITAL PLAN.—Not later than 90 days after completion of the credentialing under subparagraph (A), the Administrator shall evaluate whether the workforce of the Agency complies with the strategic human capital plan of the Agency developed under section 10102 of title 5, United States Code, and is sufficient to respond to a catastrophic incident.

''(4) INTEGRATION WITH NATIONAL RESPONSE PLAN.—

''(A) DISTRIBUTION OF STANDARDS.—Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, the Administrator shall provide the standards developed under paragraph (2) to all Federal agencies that have responsibilities under the National Response Plan.

''(B) CREDENTIALING OF AGENCIES.—Not later than 6 months after the date on which the standards are provided under subparagraph (A), each agency described in subparagraph (A) shall—

''(i) ensure that all employees or volunteers of that agency who are likely to respond to a natural disaster, act of terrorism, or other man-made disaster are credentialed; and

''(ii) submit to the Secretary the name of each credentialed employee or volunteer of such agency.

''(C) LEADERSHIP.—The Administrator shall provide leadership, guidance, and technical assistance to an agency described in subparagraph (A) to facilitate the credentialing process of that agency.

''(5) DOCUMENTATION AND DATABASE SYSTEM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Improving America's Security Act of 2007, the Administrator shall establish and maintain a documentation and database system of Federal emergency response providers and all other Federal personnel credentialed to respond to a natural disaster, act of terrorism, or other man-made disaster.

''(B) ACCESSIBILITY.—The documentation and database system established under subparagraph (1) shall be accessible to the Federal coordinating officer and other appropriate officials preparing for or responding to a natural disaster, act of terrorism, or other man-made disaster.

''(C) CONSIDERATIONS.—The Administrator shall consider whether the credentialing system can be used to regulate access to areas affected by a natural disaster, act of terrorism, or other man-made disaster.

''(6) GUIDANCE TO STATE AND LOCAL GOVERNMENTS.—Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, the Administrator shall—

''(A) in collaboration with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, emergency response providers, and the organizations that represent such providers, provide detailed written guidance, assistance, and expertise to State, local, and tribal governments to facilitate the credentialing of State, local, and tribal emergency response providers commonly or likely to be used in responding to a natural disaster, act of terrorism, or other man-made disaster; and

''(B) in coordination with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, emergency response providers (and the organizations that represent such providers), and appropriate national professional organizations, assist State, local, and tribal governments with credentialing the personnel of the State, local, or tribal government under the guidance provided under subparagraph (A).

''(7) REPORT.—Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, and annually thereafter, the Administrator 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 describing the implementation of this subsection, including the number and level of qualification of Federal personnel trained and ready to respond to a natural disaster, act of terrorism, or other man-made disaster.

''(b) TYPING OF RESOURCES.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'typed' means an asset or resource that has been evaluated for a specific function under the guidelines created under this section; and

''(B) the term 'typing' means to define in detail the minimum capabilities of an asset or resource.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, emergency response providers, and organizations that represent such providers, to collaborate on establishing nationwide standards for typing of resources commonly or likely to be used in responding to a natural disaster, act of terrorism, or other man-made disaster.

''(B) CONTENTS.—The standards developed under subparagraph (A) shall—

''(i) be applicable to Federal, State, local, and tribal government; and

''(ii) be compatible with the National Incident Management System.

''(3) TYPING OF DEPARTMENT RESOURCES AND ASSETS.—Not later than 1 year after the date of enactment of the Improving America's Security Act of 2007, the Secretary shall ensure that all resources and assets of the Department that are commonly or likely to be used to respond to a natural disaster, act of terrorism, or other man-made disaster are typed.

''(4) INTEGRATION WITH NATIONAL RESPONSE PLAN.—

''(A) DISTRIBUTION OF STANDARDS.—Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, the Administrator shall provide the standards developed under paragraph (2) to all Federal agencies that have responsibilities under the National Response Plan.

''(B) TYPING OF AGENCIES, ASSETS, AND RESOURCES.—Not later than 6 months after the date on which the standards are provided under subparagraph (A), each agency described in subparagraph (A) shall—

''(i) ensure that all resources and assets (including teams, equipment, and other assets) of that agency that are commonly or likely to be used to respond to a natural disaster, act of terrorism, or other man-made disaster are typed; and

''(ii) submit to the Secretary a list of all types resources and assets.

''(C) LEADERSHIP.—The Administrator shall provide leadership, guidance, and technical assistance to an agency described in subparagraph (A) to facilitate the typing process of that agency.

''(5) DOCUMENTATION AND DATABASE SYSTEM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Improving America's Security Act of 2007, the Administrator shall establish and maintain a documentation and database system of Federal resources and assets commonly or likely to be used to respond to a natural disaster, act of terrorism, or other man-made disaster.

''(B) ACCESSIBILITY.—The documentation and database system established under subparagraph (A) shall be accessible to the Federal coordinating officer and other appropriate officials preparing for or responding to a natural disaster, act of terrorism, or other man-made disaster.

''(6) GUIDANCE TO STATE AND LOCAL GOVERNMENTS.—Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, the Administrator, in collaboration with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, emergency response providers, and the organizations that represent such providers, shall—

''(A) provide detailed written guidance, assistance, and expertise to State, local, and tribal governments to facilitate the typing of the resources and assets of State, local, and tribal governments likely to be used in responding to a natural disaster, act of terrorism, or other man-made disaster; and

''(B) assist State, local, and tribal governments with typing resources and assets of State, local, or tribal governments under the guidance provided under subparagraph (A).

''(7) REPORT.—Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, and annually thereafter, the Administrator 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 describing

the implementation of this subsection, including the number and type of Federal resources and assets ready to respond to a natural disaster, act of terrorism, or other manmade disaster.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.''; and

(2) by adding after section 522, as added by section 803 of this Act, the following:

''SEC. 523. PROVIDING SECURE ACCESS TO CRITICAL INFRASTRUCTURE.

''Not later than 6 months after the date of enactment of the Improving America's Security Act of 2007, and in coordination with appropriate national professional organizations, Federal, State, local, and tribal government agencies, and private-sector and nongovernmental entities, the Administrator shall create model standards or guidelines that States may adopt in conjunction with critical infrastructure owners and operators and their employees to permit access to restricted areas in the event of a natural disaster, act of terrorism, or other manmade disaster.''.

(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(b)) is amended by inserting after the item relating to section 522, as added by section 803 of this Act, the following:

''Sec. 523. Providing secure access to critical infrastructure.''.

TITLE XI—CRITICAL INFRASTRUCTURE PROTECTION

SEC. 1101. CRITICAL INFRASTRUCTURE PROTECTION.

(a) CRITICAL INFRASTRUCTURE LIST.—Not later than 90 days after the date of enactment of this Act, and in coordination with other initiatives of the Secretary relating to critical infrastructure or key resource protection and partnerships between the government and private sector, the Secretary shall establish a risk-based prioritized list of critical infrastructure and key resources that—

(1) includes assets or systems that, if successfully destroyed or disrupted through a terrorist attack or natural catastrophe, would cause catastrophic national or regional impacts, including—

(A) significant loss of life;

(B) severe economic harm;

(C) mass evacuations; or

(D) loss of a city, region, or sector of the economy as a result of contamination, destruction, or disruption of vital public services; and

(2) reflects a cross-sector analysis of critical infrastructure to determine priorities for prevention, protection, recovery, and restoration.

(b) SECTOR LISTS.—The Secretary shall include levees in the Department's list of critical infrastructure sectors.

(c) MAINTENANCE.—Each list created under this section shall be reviewed and updated on an ongoing basis, but at least annually.

(d) ANNUAL REPORT.—

(1) GENERALLY.—Not later than 120 days after the date of enactment of this Act, and annually 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 report summarizing—

(A) the criteria used to develop each list created under this section;

(B) the methodology used to solicit and verify submissions for each list;

(C) the name, location, and sector classification of assets in each list created under this section;

(D) a description of any additional lists or databases the Department has developed to prioritize critical infrastructure on the basis of risk; and

(E) how each list developed under this section will be used by the Secretary in program activities, including grant making.

(2) CLASSIFIED INFORMATION.—

(A) IN GENERAL.—The Secretary shall submit with each report under this subsection a classified annex containing information required to be submitted under this subsection that cannot be made public.

(B) RETENTION OF CLASSIFICATION.—The classification of information required to be provided to Congress, the Department, or any other department or agency under this section by a sector-specific agency, including the assignment of a level of classification of such information, shall be binding on Congress, the Department, and that other Federal agency.

SEC. 1102. RISK ASSESSMENT AND REPORT.

(a) RISK ASSESSMENT.—

(1) IN GENERAL.—The Secretary, pursuant to the responsibilities under section 202 of the Homeland Security Act (6 U.S.C. 122), for each fiscal year beginning with fiscal year 2007, shall prepare a risk assessment of the critical infrastructure and key resources of the Nation which shall—

(A) be organized by sector, including the critical infrastructure sectors named in Homeland Security Presidential Directive-7, as in effect on January 1, 2006; and

(B) contain any actions or countermeasures proposed, recommended, or directed by the Secretary to address security concerns covered in the assessment.

(2) RELIANCE ON OTHER ASSESSMENTS.—In preparing the assessments and reports under this section, the Department may rely on a vulnerability assessment or risk assessment prepared by another Federal agency that the Department determines is prepared in coordination with other initiatives of the Department relating to critical infrastructure or key resource protection and partnerships between the government and private sector.

(b) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the last day of fiscal year 2007 and for each year thereafter, the Secretary shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and to each Committee of the Senate and the House of Representatives having jurisdiction over the critical infrastructure or key resource addressed by the report, containing a summary and review of the risk assessments prepared by the Secretary under this section for that fiscal year, which shall be organized by sector and which shall include recommendations of the Secretary for mitigating risks identified by the assessments.

''(2) CLASSIFIED INFORMATION.—

''(A) IN GENERAL.—The report under this subsection may contain a classified annex.

''(B) RETENTION OF CLASSIFICATION.—The classification of information required to be provided to Congress, the Department, or any other department or agency under this section by a sector-specific agency, including the assignment of a level of classification of such information, shall be binding on Congress, the Department, and that other Federal agency.''.

SEC. 1103. USE OF EXISTING CAPABILITIES.

Where appropriate, the Secretary shall use the National Infrastructure Simulation and Analysis Center to carry out the actions required under this title.

SEC. 1104. PRIORITIES AND ALLOCATIONS.

Not later than 6 months after the last day of fiscal year 2007, and for each year thereafter, the Secretary, in cooperation with the Secretary of Commerce, the Secretary of Transportation, the Secretary of Defense, and the Secretary of Energy shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Financial Services and the Committee on Homeland Security of the House of Representatives a report that details the actions taken by the Federal Government to ensure, in accordance with subsections (a) and (c) of section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071), the preparedness of industry—

(1) to reduce interruption of critical infrastructure operations during a terrorist attack, natural catastrophe, or other similar national emergency; and

(2) to minimize the impact of such catastrophes, as so described in section 1001(a)(1).

TITLE XII—CONGRESSIONAL OVERSIGHT OF INTELLIGENCE

SEC. 1201. AVAILABILITY TO PUBLIC OF CERTAIN INTELLIGENCE FUNDING INFORMATION.

(a) AMOUNTS REQUESTED EACH FISCAL YEAR.—The President shall disclose to the public for each fiscal year after fiscal year 2007 the aggregate amount of appropriations requested in the budget of the President for such fiscal year for the National Intelligence Program.

(b) AMOUNTS AUTHORIZED AND APPROPRIATED EACH FISCAL YEAR.—Congress shall disclose to the public for each fiscal year after fiscal year 2007 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for such fiscal year for the National Intelligence Program.

(c) STUDY ON DISCLOSURE OF ADDITIONAL INFORMATION.—

(1) IN GENERAL.—The Director of National Intelligence shall conduct a study to assess the advisability of disclosing to the public amounts as follows:

(A) The aggregate amount of appropriations requested in the budget of the President for each fiscal year for each element of the intelligence community.

(B) The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

(2) REQUIREMENTS.—The study required by paragraph (1) shall—

(A) address whether or not the disclosure to the public of the information referred to in that paragraph would harm the national security of the United States; and

(B) take into specific account concerns relating to the disclosure of such information for each element of the intelligence community.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Director shall submit to Congress a report on the study required by paragraph (1).

(d) DEFINITIONS.—In this section—

(1) the term ''element of the intelligence community'' means an element of the intelligence community specified in or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)); and

(2) the term ''National Intelligence Program'' has the meaning given that term in section 3(6) of the National Security Act of 1947 (50 U.S.C. 401a(6)).

SEC. 1202. RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS FROM CONGRESS.

(a) RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS FROM CONGRESS FOR INTELLIGENCE DOCUMENTS AND INFORMATION.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding at the end the following new section:

''RESPONSE OF INTELLIGENCE COMMUNITY TO REQUESTS FROM CONGRESS FOR INTELLIGENCE DOCUMENTS AND INFORMATION

''SEC. 508. (a) REQUESTS OF COMMITTEES.—The Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any department, agency, or element of the intelligence community shall, not later than 15 days after receiving a request for any intelligence assessment, report, estimate, legal opinion, or other intelligence information from the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, or any other committee of Congress with jurisdiction over the subject matter to which information in such assessment, report, estimate, legal opinion, or other information relates, make available to such committee such assessment, report, estimate, legal opinion, or other information, as the case may be.

''(b) REQUESTS OF CERTAIN MEMBERS.—(1) The Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any department, agency, or element of the intelligence community shall respond, in the time specified in subsection (a), to a request described in that subsection from the Chairman or Vice Chairman of the Select Committee on Intelligence of the Senate or the Chairman or Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives.

''(2) Upon making a request covered by paragraph (1)—

''(A) the Chairman or Vice Chairman, as the case may be, of the Select Committee on Intelligence of the Senate shall notify the other of the Chairman or Vice Chairman of such request; and

''(B) the Chairman or Ranking Member, as the case may be, of the Permanent Select Committee on Intelligence of the House of Representatives shall notify the other of the Chairman or Ranking Member of such request.

''(c) ASSERTION OF PRIVILEGE.—In response to a request covered by subsection (a) or (b), the Director of the National Counterterrorism Center, the Director of a national intelligence center, or the head of any department, agency, or element of the intelligence community shall provide the document or information covered by such request unless the President certifies that such document or information is not being provided because the President is asserting a privilege pursuant to the Constitution of the United States.

''(d) INDEPENDENT TESTIMONY OF INTELLIGENCE OFFICIALS.—No officer, department, agency, or element within the Executive branch shall have any authority to require the head of any department, agency, or element of the intelligence community, or any designate of such a head—

''(1) to receive permission to testify before Congress; or

''(2) to submit testimony, legislative recommendations, or comments to any officer or agency of the Executive branch for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to Congress if such testimony, legislative recommendations, or comments include a statement indicating that the views expressed therein are those of the head of the department, agency, or element of the intelligence community that is making the submission and do not necessarily represent the views of the Administration.''.

(b) DISCLOSURES OF CERTAIN INFORMATION TO CONGRESS.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by subsection (a), is amended by adding at the end the following new section:

''DISCLOSURES TO CONGRESS

''SEC. 509. (a) AUTHORITY TO DISCLOSE CERTAIN INFORMATION.—An employee of a covered agency or an employee of a contractor carrying out activities pursuant to a contract with a covered agency may disclose covered information to an authorized individual without first reporting such information to the appropriate Inspector General.

''(b) AUTHORIZED INDIVIDUAL.—(1) In this section, the term 'authorized individual' means—

''(A) a Member of the Senate or the House of Representatives who is authorized to receive information of the type disclosed; or

''(B) an employee of the Senate or the House of Representatives who—

''(i) has an appropriate security clearance; and

''(ii) is authorized to receive information of the type disclosed.

''(2) An authorized individual described in paragraph (1) to whom covered information is disclosed under the authority in subsection (a) shall be presumed to have a need to know such covered information.

''(c) COVERED AGENCY AND COVERED INFORMATION DEFINED.—In this section:

''(1) The term 'covered agency' means—

''(A) any department, agency, or element of the intelligence community;

''(B) a national intelligence center; and

''(C) any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

''(2) The term 'covered information'—

''(A) means information, including classified information, that an employee referred to in subsection (a) reasonably believes provides direct and specific evidence of a false or inaccurate statement—

''(i) made to Congress; or

''(ii) contained in any intelligence assessment, report, or estimate; and

''(B) does not include information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

''(d) CONSTRUCTION WITH OTHER REPORTING REQUIREMENTS.—Nothing in this section may be construed to modify, alter, or otherwise affect—

''(1) any reporting requirement relating to intelligence activities that arises under this Act or any other provision of law; or

''(2) the right of any employee of the United States to disclose information to Congress, in accordance with applicable law, information other than covered information.''.

(c) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 507 the following new items:

''Sec. 508. Response of intelligence community to requests from Congress for intelligence documents and information.

''Sec. 509. Disclosures to Congress.''.

SEC. 1203. PUBLIC INTEREST DECLASSIFICATION BOARD.

The Public Interest Declassification Act of 2000 (50 U.S.C. 435 note) is amended—

(1) in section 704(e)—

(A) by striking ''If requested'' and inserting the following:

''(1) IN GENERAL.—If requested''; and

(B) by adding at the end the following:

''(2) AUTHORITY OF BOARD.—Upon receiving a congressional request described in section 703(b)(5), the Board may conduct the review and make the recommendations described in that section, regardless of whether such a review is requested by the President.

''(3) REPORTING.—Any recommendations submitted to the President by the Board under section 703(b)(5), shall be submitted to the chairman and ranking member of the committee of Congress that made the request relating to such recommendations.''; and

(2) in section 710(b), by striking ''8 years after the date of the enactment of this Act'' and inserting ''on December 31, 2012''.

SEC. 1204. SENSE OF THE SENATE REGARDING A REPORT ON THE 9/11 COMMISSION RECOMMENDATIONS WITH RESPECT TO INTELLIGENCE REFORM AND CONGRESSIONAL INTELLIGENCE OVERSIGHT REFORM.

(a) FINDINGS.—Congress makes the following findings:

(1) The National Commission on Terrorist Attacks Upon the United States (referred to in this section as the ''9/11 Commission'') conducted a lengthy review of the facts and circumstances relating to the terrorist attacks of September 11, 2001, including those relating to the intelligence community, law enforcement agencies, and the role of congressional oversight and resource allocation.

(2) In its final report, the 9/11 Commission found that—

(A) congressional oversight of the intelligence activities of the United States is dysfunctional;

(B) under the rules of the Senate and the House of Representatives in effect at the time the report was completed, the committees of Congress charged with oversight of the intelligence activities lacked the power, influence, and sustained capability to meet the daunting challenges faced by the intelligence community of the United States;

(C) as long as such oversight is governed by such rules of the Senate and the House of Representatives, the people of the United States will not get the security they want and need;

(D) a strong, stable, and capable congressional committee structure is needed to give the intelligence community of the United States appropriate oversight, support, and leadership; and

(E) the reforms recommended by the 9/11 Commission in its final report will not succeed if congressional oversight of the intelligence community in the United States is not changed.

(3) The 9/11 Commission recommended structural changes to Congress to improve the oversight of intelligence activities.

(4) Congress has enacted some of the recommendations made by the 9/11 Commission and is considering implementing additional recommendations of the 9/11 Commission.

(5) The Senate adopted Senate Resolution 445 in the 108th Congress to address some of the intelligence oversight recommendations of the 9/11 Commission by abolishing term limits for the members of the Select Committee on Intelligence, clarifying jurisdiction for intelligence-related nominations, and streamlining procedures for the referral of intelligence-related legislation, but other aspects of the 9/11 Commission recommendations regarding intelligence oversight have not been implemented.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate each, or jointly, should—

(1) undertake a review of the recommendations made in the final report of the 9/11 Commission with respect to intelligence reform and congressional intelligence oversight reform;

(2) review and consider any other suggestions, options, or recommendations for improving intelligence oversight; and

(3) not later than December 21, 2007, submit to the Senate a report that includes the recommendations of the Committee, if any, for carrying out such reforms.

SEC. 1205. AVAILABILITY OF FUNDS FOR THE PUBLIC INTEREST DECLASSIFICATION BOARD.

Section 21067 of the Continuing Appropriations Resolution, 2007 (division B of Public Law 109–289; 120 Stat. 1311), as amended by Public Law 109–369 (120 Stat. 2642), Public Law 109–383 (120 Stat. 2678), and Public Law 110–5, is amended by adding at the end the following new subsection:

''(c) From the amount provided by this section, the National Archives and Records Administration may obligate monies necessary to carry out the activities of the Public Interest Declassification Board.''.

SEC. 1206. AVAILABILITY OF THE EXECUTIVE SUMMARY OF THE REPORT ON CENTRAL INTELLIGENCE AGENCY ACCOUNTABILITY REGARDING THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

(a) PUBLIC AVAILABILITY.—Not later than 30 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall prepare and make available to the public a version of the Executive Summary of the report entitled the ''Office of Inspector General Report on Central Intelligence Agency Accountability Regarding Findings and Conclusions of the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001'' issued in June 2005 that is declassified to the maximum extent possible, consistent with national security.

(b) REPORT TO CONGRESS.—The Director of the Central Intelligence Agency shall submit to Congress a classified annex to the redacted Executive Summary made available under subsection (a) that explains the reason that any redacted material in the Executive Summary was withheld from the public.

TITLE XIII—INTERNATIONAL COOPERATION ON ANTITER-RORISM TECHNOLOGIES

SEC. 1301. PROMOTING ANTITERRORISM CAPABILITIES THROUGH INTERNATIONAL COOPERATION.

(a) FINDINGS.—The Congress finds the following:

(1) The development and implementation of technology is critical to combating terrorism and other high consequence events and implementing a comprehensive homeland security strategy.

(2) The United States and its allies in the global war on terrorism share a common interest in facilitating research, development, testing, and evaluation of equipment, capabilities, technologies, and services that will aid in detecting, preventing, responding to, recovering from, and mitigating against acts of terrorism.

(3) Certain United States allies in the global war on terrorism, including Israel, the United Kingdom, Canada, Australia, and Singapore have extensive experience with, and technological expertise in, homeland security.

(4) The United States and certain of its allies in the global war on terrorism have a history of successful collaboration in developing mutually beneficial equipment, capabilities, technologies, and services in the areas of defense, agriculture, and telecommunications.

(5) The United States and its allies in the global war on terrorism will mutually benefit from the sharing of technological expertise to combat domestic and international terrorism.

(6) The establishment of an office to facilitate and support cooperative endeavors between and among government agencies, for-profit business entities, academic institutions, and nonprofit entities of the United States and its allies will safeguard lives and property worldwide against acts of terrorism and other high consequence events.

(b) PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION ACT.—

(1) IN GENERAL.—The Homeland Security Act of 2002 is amended by inserting after section 316, as added by section 701 of this Act, the following:

''SEC. 317. PROMOTING ANTITERRORISM THROUGH INTERNATIONAL COOPERATION PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) DIRECTOR.—The term 'Director' means the Director selected under subsection (b)(2).

''(2) INTERNATIONAL COOPERATIVE ACTIVITY.—The term 'international cooperative activity' includes—

''(A) coordinated research projects, joint research projects, or joint ventures;

''(B) joint studies or technical demonstrations;

''(C) coordinated field exercises, scientific seminars, conferences, symposia, and workshops;

''(D) training of scientists and engineers;

''(E) visits and exchanges of scientists, engineers, or other appropriate personnel;

''(F) exchanges or sharing of scientific and technological information; and

''(G) joint use of laboratory facilities and equipment.

''(b) SCIENCE AND TECHNOLOGY HOMELAND SECURITY INTERNATIONAL COOPERATIVE PROGRAMS OFFICE.—

''(1) ESTABLISHMENT.—The Under Secretary shall establish the Science and Technology Homeland Security International Cooperative Programs Office.

''(2) DIRECTOR.—The Office shall be headed by a Director, who—

''(A) shall be selected (in consultation with the Assistant Secretary for International Affairs, Policy Directorate) by and shall report to the Under Secretary; and

''(B) may be an officer of the Department serving in another position.

''(3) RESPONSIBILITIES.—

''(A) DEVELOPMENT OF MECHANISMS.—The Director shall be responsible for developing, in coordination with the Department of State, the Department of Defense, the Department of Energy, and other Federal agencies, mechanisms and legal frameworks to allow and to support international cooperative activity in support of homeland security research.

''(B) PRIORITIES.—The Director shall be responsible for developing, in coordination with the Directorate of Science and Technology, the other components of the Department (including the Office of the Assistant Secretary for International Affairs, Policy Directorate), the Department of State, the Department of Defense, the Department of Energy, and other Federal agencies, strategic priorities for international cooperative activity.

''(C) ACTIVITIES.—The Director shall facilitate the planning, development, and implementation of international cooperative activity to address the strategic priorities developed under subparagraph (B) through mechanisms the Under Secretary considers appropriate, including grants, cooperative agreements, or contracts to or with foreign public or private entities, governmental organizations, businesses, federally funded research and development centers, and universities.

''(D) IDENTIFICATION OF PARTNERS.—The Director shall facilitate the matching of United States entities engaged in homeland security research with non-United States entities engaged in homeland security research so that they may partner in homeland security research activities.

''(4) COORDINATION.—The Director shall ensure that the activities under this subsection are coordinated with the Office of International Affairs and the Department of State, the Department of Defense, the Department of Energy, and other relevant Federal agencies or interagency bodies. The Director may enter into joint activities with other Federal agencies.

''(c) MATCHING FUNDING.—

''(1) IN GENERAL.—

''(A) EQUITABILITY.—The Director shall ensure that funding and resources expended in international cooperative activity will be equitably matched by the foreign partner government or other entity through direct funding, funding of complementary activities, or through the provision of staff, facilities, material, or equipment.

''(B) GRANT MATCHING AND REPAYMENT.—

''(i) IN GENERAL.—The Secretary may require a recipient of a grant under this section—

''(I) to make a matching contribution of not more than 50 percent of the total cost of the proposed project for which the grant is awarded; and

''(II) to repay to the Secretary the amount of the grant (or a portion thereof), interest on such amount at an appropriate rate, and such charges for administration of the grant as the Secretary determines appropriate.

''(ii) MAXIMUM AMOUNT.—The Secretary may not require that repayment under clause (i)(II) be more than 150 percent of the amount of the grant, adjusted for inflation on the basis of the Consumer Price Index.

''(2) FOREIGN PARTNERS.—Partners may include Israel, the United Kingdom, Canada, Australia, Singapore, and other allies in the global war on terrorism, as determined by the Secretary of State.

''(d) FUNDING.—Funding for all activities under this section shall be paid from discretionary funds appropriated to the Department.

''(e) FOREIGN REIMBURSEMENTS.—If the Science and Technology Homeland Security International Cooperative Programs Office participates in an international cooperative activity with a foreign partner on a cost-sharing basis, any reimbursements or contributions received from that foreign partner to meet the share of that foreign partner of the project may be credited to appropriate appropriations accounts of the Directorate of Science and Technology.''.

(2) 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 adding after the item relating to section 316, as added by section 701 of this Act, the following:

''Sec. 317. Promoting antiterrorism through international cooperation program.''.

SEC. 1302. TRANSPARENCY OF FUNDS.

For each Federal award (as that term is defined in section 2 of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note)) under this title or an amendment made by this title, the Director of the Office of Management and Budget shall ensure full and timely compliance with the requirements of the Federal Funding Accountability and Transparency Act of 2006 (31 U.S.C. 6101 note).

TITLE XIV—TRANSPORTATION AND INTEROPERABLE COMMUNICATION CAPABILITIES

SEC. 1401. SHORT TITLE.

This title may be cited as the ''Transportation Security and Interoperable Communication Capabilities Act''.

Subtitle A—Surface Transportation and Rail Security

SEC. 1411. DEFINITION.

In this title, the term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, anhydrous ammonia, and other hazardous materials that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.

PART I—IMPROVED RAIL SECURITY

SEC. 1421. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) RISK ASSESSMENT.—The Secretary shall establish a task force, including the Transportation Security Administration and other agencies within the Department, the Department of Transportation, and other appropriate Federal agencies, to complete a risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) a methodology for conducting the risk assessment, including timelines, that addresses how the Department of Homeland Security will work with the entities described in subsection (b) and make use of existing Federal expertise within the Department of Homeland Security, the Department of Transportation, and other appropriate agencies;

(B) identification and evaluation of critical assets and infrastructures;

(C) identification of risks to those assets and infrastructures;

(D) identification of risks that are specific to the transportation of hazardous materials via railroad;

(E) identification of risks to passenger and cargo security, transportation infrastructure (including rail tunnels used by passenger and freight railroads in high threat urban areas), protection systems, operations, communications systems, employee training, emergency response planning, and any other area identified by the assessment;

(F) an assessment of public and private operational recovery plans to expedite, to the maximum extent practicable, the return of an adversely affected freight or passenger rail transportation system or facility to its normal performance level after a major terrorist attack or other security event on that system or facility; and

(G) an account of actions taken or planned by both public and private entities to address identified rail security issues and assess the effective integration of such actions.

(2) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service or on operations served or otherwise affected by rail service;

(B) deploying equipment and personnel to detect security threats, including those posed by explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, preparedness, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads regarding security;

(E) deploying surveillance equipment;

(F) identifying the immediate and long-term costs of measures that may be required to address those risks; and

(G) public and private sector sources to fund such measures.

(3) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal Government to provide adequate security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in coordination with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, offerers of hazardous materials, public safety officials, and other relevant parties. In developing the risk assessment required under this section, the Secretary shall utilize relevant existing risk assessments developed by the Department or other Federal agencies, and, as appropriate, assessments developed by other public and private stakeholders.

(c) REPORT.—

(1) CONTENTS.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives a report containing—

(A) the assessment, prioritized recommendations, and plans required by subsection (a); and

(B) an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1437 of this title, there shall be made available to the Secretary to carry out this section $5,000,000 for fiscal year 2008.

SEC. 1422. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—

(1) GRANTS.—Subject to subsection (c) the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), is authorized to make grants to Amtrak in accordance with the provisions of this section.

(2) GENERAL PURPOSES.—The Secretary may make such grants for the purposes of—

(A) protecting underwater and underground assets and systems;

(B) protecting high risk and high consequence assets identified through systemwide risk assessments;

(C) providing counter-terrorism training;

(D) providing both visible and unpredictable deterrence; and

(E) conducting emergency preparedness drills and exercises.

(3) SPECIFIC PROJECTS.—The Secretary shall make such grants—

(A) to secure major tunnel access points and ensure tunnel integrity in New York, New Jersey, Maryland, and Washington, DC;

(B) to secure Amtrak trains;

(C) to secure Amtrak stations;

(D) to obtain a watch list identification system approved by the Secretary;

(E) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(F) to hire additional police officers, special agents, security officers, including canine units, and to pay for other labor costs directly associated with security and terrorism prevention activities;

(G) to expand emergency preparedness efforts; and

(H) for employee security training.

(b) CONDITIONS.—The Secretary of Transportation shall disburse funds to Amtrak provided under subsection (a) for projects contained in a systemwide security plan approved by the Secretary. Amtrak shall develop the security plan in consultation with constituent States and other relevant parties. The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training and shall be consistent with State security plans to the maximum extent practicable.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system and consistent with the risk assessment required under section 1421, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1437 of this title, there shall be made available to the Secretary and the Assistant Secretary of Homeland Security (Transportation Security Administration) to carry out this section—

(A) $63,500,000 for fiscal year 2008;

(B) $30,000,000 for fiscal year 2009; and

(C) $30,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1423. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation, in consultation with the Secretary, is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, New Jersey, Maryland, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 1437(b) of this title, there shall be made available to the Secretary of Transportation

for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York and New Jersey tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2008;

(B) $100,000,000 for fiscal year 2009;

(C) $100,000,000 for fiscal year 2010; and

(D) $100,000,000 for fiscal year 2011.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2008;

(B) $10,000,000 for fiscal year 2009;

(C) $10,000,000 for fiscal year 2010; and

(D) $10,000,000 for fiscal year 2011.

(3) For the Washington, DC, Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2008;

(B) $8,000,000 for fiscal year 2009;

(C) $8,000,000 for fiscal year 2010; and

(D) $8,000,000 for fiscal year 2011.

(c) INFRASTRUCTURE UPGRADES.—Out of funds appropriated pursuant to section 1437(b) of this title, there shall be made available to the Secretary of Transportation for fiscal year 2008 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts made available pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, and periodic status reports.

(f) REVIEW OF PLANS.—

(1) IN GENERAL.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak.

(2) INCOMPLETE OR DEFICIENT PLAN.—If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review.

(3) APPROVAL OF PLAN.—Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall—

(A) identify in writing to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives the portions of the plan the Secretary finds incomplete or deficient;

(B) approve all other portions of the plan;

(C) obligate the funds associated with those other portions; and

(D) execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use or plan to use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use or planned use of the tunnels, if feasible.

SEC. 1424. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Secretary, in consultation with Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies or officials, is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials offerers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for rail passenger facilities and infrastructure not owned by Amtrak), and to Amtrak for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security risks identified under section 1421, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of rail cargo or passenger screening equipment at the United States-Mexico border, the United States-Canada border, or other ports of entry;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 1421, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(c) ALLOCATION.—The Secretary shall distribute the funds authorized by this section based on risk as determined under section 1421, and shall encourage non-Federal financial participation in projects funded by grants awarded under this section. With respect to grants for intercity passenger rail security, the Secretary shall also take into account passenger volume and whether stations or facilities are used by commuter rail passengers as well as intercity rail passengers. Not later than 240 days after the date of enactment of this Act, the Secretary shall provide a report to the Committees on Commerce, Science and Transportation and Homeland Security and Governmental Affairs in the Senate and the Committee on Homeland Security in the House on the feasibility and appropriateness of requiring a non-federal match for the grants authorized in subsection (a).

(d) CONDITIONS.—Grants awarded by the Secretary to Amtrak under subsection (a) shall be disbursed to Amtrak through the Secretary of Transportation. The Secretary of Transportation may not disburse such funds unless Amtrak meets the conditions set forth in section 1422(b) of this title.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 1421 the Secretary determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made cumulatively over the period authorized by this title—

(1) in excess of $45,000,000 to Amtrak; or

(2) in excess of $80,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1437 of this title, there shall be made available to the Secretary to carry out this section—

(A) $100,000,000 for fiscal year 2008;

(B) $100,000,000 for fiscal year 2009; and

(C) $100,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1425. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Secretary, through the Under Secretary for Science and Technology and the Assistant Secretary of Homeland Security (Transportation Security Administration), in consultation with the Secretary of Transportation shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the risk of terrorist attacks on rail transportation, including risks posed by explosives and hazardous chemical, biological, and radioactive substances to intercity rail passengers, facilities, and equipment;

(2) test new emergency response techniques and technologies;

(3) develop improved freight rail security technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car or other rail car used to transport hazardous materials and transmit information about the integrity of cars to the train crew or dispatcher;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 1411 of this title); and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects that address risks identified under section 1421.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Secretary shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Secretary shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation, if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) GRANTS AND ACCOUNTABILITY.—To carry out the research and development program, the Secretary may award grants to the entities described in section 1424(a) and shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1437 of this title, there shall be made available to the Secretary to carry out this section—

(A) $33,000,000 for fiscal year 2008;

(B) $33,000,000 for fiscal year 2009; and

(C) $33,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1426. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary may award contracts to audit and review the safety, security, procurement, management, and financial compliance of a recipient of amounts under this title.

(b) PROCEDURES FOR GRANT AWARD.—The Secretary shall, within 180 days after the date of enactment of this Act, prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Secretary and shall be consistent, to the extent practicable, with the grant procedures established under section 70107 of title 46, United States Code.

(c) ADDITIONAL AUTHORITY.—The Secretary may issue nonbinding letters under similar terms to those issued pursuant to section 47110(e) of title 49, United States Code, to sponsors of rail projects funded under this title.

SEC. 1427. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Transportation Security and Interoperable Communication Capabilities Act, Amtrak shall submit to the Chairman of the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board, the Secretary of Transportation, and the Secretary of Homeland Security, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—Neither the National Transportation Safety Board, the Secretary of Transportation, the Secretary of Homeland Security, nor Amtrak may release any personal information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak under this section in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) FUNDING.—Out of funds appropriated pursuant to section 1437(b) of the Transportation Security and Interoperable Communication Capabilities Act, there shall be made available to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2008 to carry out this section. Amounts made available pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''24316. Plan to assist families of passengers involved in rail passenger accidents''.

SEC. 1428. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), the Secretary of Transportation, heads of other appropriate Federal departments, and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers;

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security; and

(8) an analysis of the feasibility of reinstating in-transit inspections onboard international Amtrak trains.

SEC. 1429. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers and shippers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare

front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.

(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements appropriate to passenger and freight rail service that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew communication and coordination.

(3) Appropriate responses to defend or protect oneself.

(4) Use of protective devices.

(5) Evacuation procedures.

(6) Psychology, behavior, and methods of terrorists, including observation and analysis.

(7) Situational training exercises regarding various threat conditions.

(8) Any other subject the Secretary considers appropriate.

(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 90 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 90 days after receiving them.

(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.

(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, locomotive engineers, conductors, trainmen, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.

(g) OTHER EMPLOYEES.—The Secretary shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.

SEC. 1430. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20117 the following:

''§ 20118. Whistleblower protection for rail Security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—A railroad carrier engaged in interstate or foreign commerce may not discharge or in any way discriminate against an employee because the employee, whether acting for the employee or as a representative, has—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security;

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this subtitle, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation or Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.

''(f) PROCESS FOR REPORTING PROBLEMS.—

''(1) ESTABLISHMENT OF REPORTING PROCESS.—The Secretary shall establish, and provide information to the public regarding, a process by which any person may submit a report to the Secretary regarding railroad security problems, deficiencies, or vulnerabilities.

''(2) CONFIDENTIALITY.—The Secretary shall keep confidential the identity of a person who submits a report under paragraph (1) and any such report shall be treated as a record containing protected information to the extent that it does not consist of publicly available information.

''(3) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person making the report, the Secretary shall respond promptly to such person and acknowledge receipt of the report.

''(4) STEPS TO ADDRESS PROBLEMS.—The Secretary shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps under this title to address any problems or deficiencies identified.

''(5) RETALIATION PROHIBITED.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the compensation to, or terms, conditions, or privileges of the employment of, such employee because the employee (or a person acting pursuant to a request of the employee) made a report under paragraph (1).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20117 the following:

''20118. Whistleblower protection for rail security matters''.

SEC. 1431. HIGH HAZARD MATERIAL SECURITY RISK MITIGATION PLANS.

(a) IN GENERAL.—The Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, as defined in section 1411 of this title, to develop a high hazard material security risk mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.

(b) IMPLEMENTATION.—A high hazard material security risk mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe or specific intelligence of probable or imminent threat exists towards—

(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or

(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.

(c) COMPLETION AND REVIEW OF PLANS.—

(1) PLANS REQUIRED.—Each rail carrier shall—

(A) submit a list of routes used to transport high hazard materials to the Secretary within 60 days after the date of enactment of this Act;

(B) develop and submit a high hazard material security risk mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary that includes an operational recovery plan to expedite, to the maximum extent practicable, the return of an adversely affected rail system or facility to its normal performance level following a major terrorist attack or other security incident; and

(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.

(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.

(d) DEFINITIONS.—In this section:

(1) The term ''high-consequence target'' means property, infrastructure, public space, or natural resource designated by the Secretary that is a viable terrorist target of national significance, the attack of which could result in—

(A) catastrophic loss of life;

(B) significant damage to national security or defense capabilities; or

(C) national economic harm.

(2) The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—

(A) loss of life; or

(B) significant damage to property or structures.

(3) The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.

SEC. 1432. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, as amended by section 902(a) of this title, is further amended by adding at the end the following:

''(v) ENFORCEMENT OF REGULATIONS AND ORDERS OF THE SECRETARY OF HOMELAND SECURITY ISSUED UNDER THIS TITLE.—

''(1) APPLICATION OF SUBSECTION.—

''(A) IN GENERAL.—This subsection applies to the enforcement of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title other than a provision of chapter 449.

''(B) VIOLATIONS OF CHAPTER 449.—The penalties for violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under chapter 449 of this title are provided under chapter 463 of this title.

''(C) NONAPPLICATION TO CERTAIN VIOLATIONS.—

''(i) Paragraphs (2) through (5) of this subsection do not apply to violations of regulations prescribed, and orders issued, by the Secretary of Homeland Security under a provision of this title—

''(I) involving the transportation of personnel or shipments of materials by contractors where the Department of Defense has assumed control and responsibility;

''(II) by a member of the armed forces of the United States when performing official duties; or

''(III) by a civilian employee of the Department of Defense when performing official duties.

''(ii) Violations described in subclause (I), (II), or (III) of clause (i) shall be subject to penalties as determined by the Secretary of Defense or the Secretary's designee.

''(2) CIVIL PENALTY.—

''(A) IN GENERAL.—A person is liable to the United States Government for a civil penalty of not more than $10,000 for a violation of a regulation prescribed, or order issued, by the Secretary of Homeland Security under this title.

''(B) REPEAT VIOLATIONS.—A separate violation occurs under this paragraph for each day the violation continues.

''(3) ADMINISTRATIVE IMPOSITION OF CIVIL PENALTIES.—

''(A) IN GENERAL.—The Secretary of Homeland Security may impose a civil penalty for a violation of a regulation prescribed, or order issued, under this title. The Secretary shall give written notice of the finding of a violation and the penalty.

''(B) SCOPE OF CIVIL ACTION.—In a civil action to collect a civil penalty imposed by the Secretary under this subsection, the court may not re-examine issues of liability or the amount of the penalty.

''(C) JURISDICTION.—The district courts of the United States have exclusive jurisdiction of civil actions to collect a civil penalty imposed by the Secretary under this subsection if—

''(i) the amount in controversy is more than—

''(I) $400,000, if the violation was committed by a person other than an individual or small business concern; or

''(II) $50,000, if the violation was committed by an individual or small business concern;

''(ii) the action is in rem or another action in rem based on the same violation has been brought; or

''(iii) another action has been brought for an injunction based on the same violation.

''(D) MAXIMUM PENALTY.—The maximum penalty the Secretary may impose under this paragraph is—

''(i) $400,000, if the violation was committed by a person other than an individual or small business concern; or

''(ii) $50,000, if the violation was committed by an individual or small business concern.

''(4) COMPROMISE AND SETOFF.—

''(A) The Secretary may compromise the amount of a civil penalty imposed under this subsection. If the Secretary compromises the amount of a civil penalty under this subparagraph, the Secretary shall—

''(i) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security of the compromised penalty and explain the rationale therefor; and

''(ii) make the explanation available to the public to the extent feasible without compromising security.

''(B) The Government may deduct the amount of a civil penalty imposed or compromised under this subsection from amounts it owes the person liable for the penalty.

''(5) INVESTIGATIONS AND PROCEEDINGS.—Chapter 461 of this title shall apply to investigations and proceedings brought under this subsection to the same extent that it applies to investigations and proceedings brought with respect to aviation security duties designated to be carried out by the Secretary.

''(6) DEFINITIONS.—In this subsection:

''(A) PERSON.—The term 'person' does not include—

''(i) the United States Postal Service; or

''(ii) the Department of Defense.

''(B) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632).''.

(b) CONFORMING AMENDMENT.—Section 46301(a)(4) of title 49, United States Code is amended by striking ''or another requirement under this title administered by the Under Secretary of Transportation for Security''.

(c) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 1433. RAIL SECURITY ENHANCEMENTS.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''Under''; and

(2) by adding at the end the following:

''(b) ASSIGNMENT.—A rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State may be temporarily assigned to assist a second rail carrier in carrying out law enforcement duties upon the request of the second rail carrier, at which time the police officer shall be considered to be an employee of the second rail carrier and shall have authority to enforce the laws of any jurisdiction in which the second rail carrier owns property to the same extent as provided in subsection (a).''.

(b) MODEL STATE LEGISLATION.—By no later than September 7, 2007, the Secretary of Transportation shall develop model State legislation to address the problem of entities that claim to be rail carriers in order to establish and run a police force when the entities do not in fact provide rail transportation and shall make it available to State governments. In developing the model State legislation the Secretary shall solicit the input of the States, railroads companies, and railroad employees. The Secretary shall review and, if necessary, revise such model State legislation periodically.

SEC. 1434. PUBLIC AWARENESS.

Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary shall implement the plan developed under this section.

SEC. 1435. RAILROAD HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS.—

(1) IN GENERAL.—In conjunction with the research and development program established under section 1425 and consistent with the results of research relating to wireless tracking technologies, the Secretary, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 1411 of this title) with technology that provides—

(A) car position location and tracking capabilities; and

(B) notification of rail car depressurization, breach, unsafe temperature, or release of hazardous materials.

(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and

(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.

(b) FUNDING.—Out of funds appropriated pursuant to section 114(w) of title 49, United States Code, as amended by section 1437 of this title, there shall be made available to the Secretary to carry out this section $3,000,000 for each of fiscal years 2008, 2009, and 2010.

SEC. 1436. UNIFIED CARRIER REGISTRATION SYSTEM PLAN AGREEMENT.

(a) IN GENERAL.—Notwithstanding section 4305(a) of the SAFETEA–LU Act (Public Law 109–59)—

(1) section 14504 of title 49, United States Code, as that section was in effect on December 31, 2006, is re-enacted, effective as of January 1, 2007; and

(2) no fee shall be collected pursuant to section 14504a of title 49, United States Code, until 30 days after the date, as determined by the Secretary of Transportation, on which—

(A) the unified carrier registration system plan and agreement required by that section has been fully implemented; and

(B) the fees have been set by the Secretary under subsection (d)(7)(B) of that section.

(b) REPEAL OF SECTION 14504.—Section 14504 of title 49, United States Code, as re-enacted by this Act, is repealed effective on the date on which fees may be collected under section 14504a of title 49, United States Code, pursuant to subsection (a)(2) of this section.

SEC. 1437. AUTHORIZATION OF APPROPRIATIONS.

(a) TRANSPORTATION SECURITY ADMINISTRATION AUTHORIZATION.—Section 114 of title 49, United States Code, as amended by section 1432, is amended by adding at the end thereof the following:

''(w) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for rail security—

''(1) $205,000,000 for fiscal year 2008;

''(2) $166,000,000 for fiscal year 2009; and

''(3) $166,000,000 for fiscal year 2010.''.

(b) DEPARTMENT OF TRANSPORTATION.—There are authorized to be appropriated to the Secretary of Transportation to carry out this title and sections 20118 and 24316 of title 49, United States Code, as added by this title—

(1) $121,000,000 for fiscal year 2008;

(2) $118,000,000 for fiscal year 2009;

(3) $118,000,000 for fiscal year 2010; and

(4) $118,000,000 for fiscal year 2011.

SEC. 1438. APPLICABILITY OF DISTRICT OF COLUMBIA LAW TO CERTAIN AMTRAK CONTRACTS.

Section 24301 of title 49, United States Code, is amended by adding at the end the following:

''(o) APPLICABILITY OF DISTRICT OF COLUMBIA LAW.—Any lease or contract entered into between the National Railroad Passenger Corporation and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection shall be governed by the laws of the District of Columbia.''.

PART II—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

SEC. 1441. HAZARDOUS MATERIALS HIGHWAY ROUTING.

(a) ROUTE PLAN GUIDANCE.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary, shall—

(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security risks associated with hazardous material routes;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security risks when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous material and assess specific security risks associated with each route and explore alternative mitigation measures; and

(7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

(1) ASSESSMENT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers.

SEC. 1442. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.

(a) COMMUNICATIONS.—

(1) IN GENERAL.—Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to facilitate the tracking of motor carrier shipments of high hazard materials, as defined in this title, and to equip vehicles used in such shipments with technology that provides—

(A) frequent or continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency message.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier or high hazardous materials tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004; and

(C) evaluate—

(i) any new information related to the costs and benefits of deploying, equipping, and utilizing tracking technology, including portable tracking technology, for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of tracking technology to resist tampering and disabling;

(iii) the capability of tracking technology to collect, display, and store information regarding the movement of shipments of high hazard materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials;

(v) technology that allows the installation by a motor carrier of concealed and portable electronic devices on commercial motor vehicles that can be activated by law enforcement authorities to disable the vehicle and alert emergency response resources to locate and recover high hazard materials in the event of loss or theft of such materials; and

(vi) whether installation of the technology described in clause (v) should be incorporated into the program under paragraph (1);

(vii) the costs, benefits, and practicality of such technology described in clause (v) in the context of the overall benefit to national security, including commerce in transportation; and

(viii) other systems the Secretary determines appropriate.

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary, through the Transportation Security Administration, shall promulgate regulations to carry out the provisions of subsection (a).

(c) FUNDING.—There are authorized to be appropriated to the Secretary to carry out this section, $7,000,000 for each of fiscal years 2008, 2009, and 2010, of which—

(1) $3,000,000 per year may be used for equipment; and

(2) $1,000,000 per year may be used for operations.

(d) REPORT.—Within 1 year after the issuance of regulations under subsection (b), the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs and the House Committee on Homeland Security on the program developed and evaluation carried out under this section.

(e) LIMITATION.—The Secretary may not mandate the installation or utilization of the technology described under (a)(2)(C)(v) without additional congressional action on that matter.

SEC. 1443. MEMORANDUM OF AGREEMENT.

Similar to the other security annexes between the 2 departments, within 1 year after

the date of enactment of this Act, the Secretary of Transportation and the Secretary shall execute and develop an annex to the memorandum of agreement between the 2 departments signed on September 28, 2004, governing the specific roles, delineations of responsibilities, resources and commitments of the Department of Transportation and the Department of Homeland Security, respectively, in addressing motor carrier transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

SEC. 1444. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that—

(1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and

(2) a common set of standards is used to review the security plans.

(b) CIVIL PENALTY.—The failure, by an offerer, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the offerer, carrier, or other person received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials offerers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions of the highest risk hazardous materials transportation operations.

(d) TRANSPORTATION COSTS STUDY.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by offerers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials.

(e) FUNDING.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $2,000,000 for fiscal year 2008;

(2) $2,000,000 for fiscal year 2009; and

(3) $2,000,000 for fiscal year 2010.

SEC. 1445. TRUCK SECURITY ASSESSMENT.

Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Finance, the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Homeland Security, and the House of Representatives Committee on Ways and Means, a report on security issues related to the trucking industry that includes—

(1) an assessment of actions already taken to address identified security issues by both public and private entities;

(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(3) an assessment of ongoing research and the need for additional research on truck security;

(4) an assessment of industry best practices to enhance security; and

(5) an assessment of the current status of secure motor carrier parking.

SEC. 1446. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.

(a) DEVELOPMENT.—The Secretary, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages, and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and non-profit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) CAPABILITY.—The national public sector response system to be considered shall be able to receive, as appropriate—

(1) negative driver verification alerts;

(2) out-of-route alerts;

(3) driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) CHARACTERISTICS.—The national public sector response system to be considered shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) CARRIER PARTICIPATION.—The Secretary shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established.

(e) DATA PRIVACY.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees.

(f) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system.

(g) FUNDING.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $1,000,000 for fiscal year 2008;

(2) $1,000,000 for fiscal year 2009; and

(3) $1,000,000 for fiscal year 2010.

SEC. 1447. OVER-THE-ROAD BUS SECURITY ASSISTANCE.

(a) IN GENERAL.—The Secretary shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road bus terminal operators for the purposes of emergency preparedness drills and exercises, protecting high risk/high consequence assets identified through system-wide risk assessment, counter-terrorism training, visible/unpredictable deterrence, public awareness and preparedness campaigns, and including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security risks, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading emergency communications tracking and control systems; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) DUE CONSIDERATION.—In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security risks to bus passengers and the ability of the funded project to reduce, or respond to, that risk.

(c) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(d) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(A) a plan for making security improvements described in subsection (a) and the Secretary has reviewed or approved the plan; and

(B) such additional information as the Secretary may require to ensure accountability

for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(e) OVER-THE-ROAD BUS DEFINED.—In this section, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

(f) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report in accordance with the requirements of this section.

(2) CONTENTS OF REPORT.—The report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver;

(F) an assessment of industry best practices to enhance security; and

(G) an assessment of school bus security, if the Secretary deems it appropriate.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(g) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this section—

(A) $12,000,000 for fiscal year 2008;

(B) $25,000,000 for fiscal year 2009; and

(C) $25,000,000 for fiscal year 2010.

(2) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 1448. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed on August 9, 2006, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 1449—

(A) at severe security threat levels of alert; or

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers, State pipeline safety agencies, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. 1449. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.

(b) REVIEW AND INSPECTION.—Within 9 months after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and implement a plan for reviewing the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), risk assessment methodologies shall be used to prioritize risks and to target inspection and enforcement actions to the highest risk pipeline assets.

(d) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary and the Secretary of Transportation shall develop and transmit to pipeline operators security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary determines that regulations are appropriate, the Secretary shall consult with the Secretary of Transportation on the extent of risk and appropriate mitigation measures, and the Secretary or the Secretary of Transportation, consistent with the memorandum of understanding annex signed on August 9, 2006, shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance.

(e) FUNDING.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $2,000,000 for fiscal year 2008; and

(2) $2,000,000 for fiscal year 2009.

SEC. 1450. TECHNICAL CORRECTIONS.

Section 5103a of title 49, United States Code, is amended—

(1) by inserting ''of Homeland Security'' after ''Secretary'' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and

(2) by redesignating subsection (h) as subsection (i), and inserting the following after subsection (g):

''(h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.—Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.''.

SEC. 1451. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.

SEC. 1452. MARITIME AND SURFACE TRANSPORTATION SECURITY USER FEE STUDY.

(a) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the need for, and feasibility of, establishing a system of maritime and surface transportation-related user fees that may be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for legitimate improvements to, and maintenance of, maritime and surface transportation security. In developing the study, the Secretary shall consult with maritime and surface transportation carriers, shippers, passengers, facility owners and operators, and other persons as determined by the Secretary. Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that contains—

(1) the results of the study;

(2) an assessment of the annual sources of funding collected through maritime and surface transportation at ports of entry and a detailed description of the distribution and use of such funds, including the amount and

percentage of such sources that are dedicated to improve and maintain security;

(3)(A) an assessment of the fees, charges, and standards imposed on United States ports, port terminal operators, shippers, carriers, and other persons who use United States ports of entry compared with the fees and charges imposed on Canadian and Mexican ports, Canadian and Mexican port terminal operators, shippers, carriers, and other persons who use Canadian or Mexican ports of entry; and

(B) an assessment of the impact of such fees, charges, and standards on the competitiveness of United States ports, port terminal operators, railroads, motor carriers, pipelines, other transportation modes, and shippers;

(4) an assessment of private efforts and investments to secure maritime and surface transportation modes, including those that are operational and those that are planned; and

(5) the Secretary's recommendations based upon the study, and an assessment of the consistency of such recommendations with the international obligations and commitments of the United States.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' has the meaning given that term by section 2(1) of the SAFE Port Act (6 U.S.C. 901(1)).

(2) PORT OF ENTRY.—The term ''port of entry'' means any port or other facility through which foreign goods are permitted to enter the customs territory of a country under official supervision.

(3) MARITIME AND SURFACE TRANSPORTATION.—The term ''maritime and surface transportation'' includes oceanborne, rail, and vehicular transportation.

SEC. 1453. DHS INSPECTOR GENERAL REPORT ON HIGHWAY WATCH GRANT PROGRAM.

Within 90 days after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and Committee on Homeland Security and Governmental Affairs on the Trucking Security Grant Program for fiscal years 2004 and 2005 that—

(1) addresses the grant announcement, application, receipt, review, award, monitoring, and closeout processes; and

(2) states the amount obligated or expended under the program for fiscal years 2004 and 2005 for—

(A) infrastructure protection;

(B) training;

(C) equipment;

(D) educational materials;

(E) program administration;

(E) marketing; and

(F) other functions.

SEC. 1454. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) DISQUALIFICATIONS.—

''(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

''(i) Espionage or conspiracy to commit espionage.

''(ii) Sedition or conspiracy to commit sedition.

''(iii) Treason or conspiracy to commit treason.

''(iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a comparable State law, or conspiracy to commit such crime.

''(v) A crime involving a transportation security incident.

''(vi) Improper transportation of a hazardous material under section 5124 of title 49, or a comparable State law.

''(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device. In this clause, an explosive or explosive device includes—

''(I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

''(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

''(III) a destructive device (as defined in 921(a)(4) of title 18 and section 5845(f) of the Internal Revenue Code of 1986).

''(viii) Murder.

''(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

''(x) A violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961 et seq.), or a comparable State law, if 1 of the predicate acts found by a jury or admitted by the defendant consists of 1 of the crimes listed in this subparagraph.

''(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

''(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

''(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

''(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. In this clause, a firearm or other weapon includes—

''(I) firearms (as defined in section 921(a)(3) of title 18 and section 5845(a) of the Internal Revenue Code of 1986); and

''(II) items contained on the United States Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

''(ii) Extortion.

''(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

''(iv) Bribery.

''(v) Smuggling.

''(vi) Immigration violations.

''(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

''(viii) Arson.

''(ix) Kidnapping or hostage taking.

''(x) Rape or aggravated sexual abuse.

''(xi) Assault with intent to kill.

''(xii) Robbery.

''(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

''(xiv) Fraudulent entry into a seaport under section 1036 of title 18, or a comparable State law.

''(xv) A violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961 et seq.) or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

''(C) UNDER WANT WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in this paragraph, is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

''(D) DETERMINATION OF ARREST STATUS.—

''(i) IN GENERAL.—If a fingerprint-based check discloses an arrest for a disqualifying crime listed in this section without indicating a disposition, the Transportation Security Administration shall notify the applicant of such disclosure and provide the applicant with instructions on how the applicant can clear the disposition, in accordance with clause (ii).

''(ii) BURDEN OF PROOF.—In order to clear a disposition under this subparagraph, an applicant shall submit written proof to the Transportation Security Administration, not later than 60 days after receiving notification under clause (i), that the arrest did not result in conviction for the disqualifying criminal offense.

''(iii) NOTIFICATION OF DISQUALIFICATION.—If the Transportation Security Administration does not receive proof in accordance with the Transportation Security Administration's procedures for waiver of criminal offenses and appeals, the Transportation Security Administration shall notify—

''(I) the applicant that he or she is disqualified from being issued a biometric transportation security card under subsection (b);

''(II) the State that the applicant is disqualified, in the case of a hazardous materials endorsement; and

''(III) the Coast Guard that the applicant is disqualified, if the applicant is a mariner.

''(E) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

''(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

''(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

''(II) for causing a severe transportation security incident;

''(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

''(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(iv) otherwise poses a terrorism security risk to the United States.

''(F) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add or modify the offenses described in paragraph (1)(A) or (B).''.

(b) CONFORMING AMENDMENT.—Section 70101 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7); and

(2) by inserting after paragraph (1) the following:

''(2) The term 'economic disruption' does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employer-employee dispute.''.

SEC. 1455. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) DISQUALIFICATIONS.—

''(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

''(i) Espionage or conspiracy to commit espionage.

''(ii) Sedition or conspiracy to commit sedition.

''(iii) Treason or conspiracy to commit treason.

''(iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a comparable State law, or conspiracy to commit such crime.

''(v) A crime involving a transportation security incident.

''(vi) Improper transportation of a hazardous material under section 5124 of title 49, or a comparable State law.

''(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or explosive device. In this clause, an explosive or explosive device includes—

''(I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

''(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

''(III) a destructive device (as defined in 921(a)(4) of title 18 and section 5845(f) of the Internal Revenue Code of 1986).

''(viii) Murder.

''(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

''(x) A violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961 et seq.), or a comparable State law, if 1 of the predicate acts found by a jury or admitted by the defendant consists of 1 of the crimes listed in this subparagraph.

''(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

''(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

''(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

''(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. In this clause, a firearm or other weapon includes—

''(I) firearms (as defined in section 921(a)(3) of title 18 and section 5845(a) of the Internal Revenue Code of 1986); and

''(II) items contained on the United States Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

''(ii) Extortion.

''(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

''(iv) Bribery.

''(v) Smuggling.

''(vi) Immigration violations.

''(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

''(viii) Arson.

''(ix) Kidnapping or hostage taking.

''(x) Rape or aggravated sexual abuse.

''(xi) Assault with intent to kill.

''(xii) Robbery.

''(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

''(xiv) Fraudulent entry into a seaport under section 1036 of title 18, or a comparable State law.

''(xv) A violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961 et seq.) or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

''(C) UNDER WANT WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in this paragraph, is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

''(D) DETERMINATION OF ARREST STATUS.—

''(i) IN GENERAL.—If a fingerprint-based check discloses an arrest for a disqualifying crime listed in this section without indicating a disposition, the Transportation Security Administration shall notify the applicant of such disclosure and provide the applicant with instructions on how the applicant can clear the disposition, in accordance with clause (ii).

''(ii) BURDEN OF PROOF.—In order to clear a disposition under this subparagraph, an applicant shall submit written proof to the Transportation Security Administration, not later than 60 days after receiving notification under clause (i), that the arrest did not result in conviction for the disqualifying criminal offense.

''(iii) NOTIFICATION OF DISQUALIFICATION.—If the Transportation Security Administration does not receive proof in accordance with the Transportation Security Administration's procedures for waiver of criminal offenses and appeals, the Transportation Security Administration shall notify—

''(I) the applicant that he or she is disqualified from being issued a biometric transportation security card under subsection (b);

''(II) the State that the applicant is disqualified, in the case of a hazardous materials endorsement; and

''(III) the Coast Guard that the applicant is disqualified, if the applicant is a mariner.

''(E) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

''(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

''(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

''(II) for causing a severe transportation security incident;

''(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

''(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(iv) otherwise poses a terrorism security risk to the United States.

''(F) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to the offenses described in paragraph (1)(A) or (B).''.

(b) CONFORMING AMENDMENT.—Section 70101 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7); and

(2) by inserting after paragraph (1) the following:

''(2) The term 'economic disruption' does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employer-employee dispute.''.

Subtitle B—Aviation Security Improvement

SEC. 1461. EXTENSION OF AUTHORIZATION FOR AVIATION SECURITY FUNDING.

Section 48301(a) of title 49, United States Code, is amended by striking ''and 2006'' and inserting ''2006, 2007, 2008, and 2009''.

SEC. 1462. PASSENGER AIRCRAFT CARGO SCREENING.

(a) IN GENERAL.—Section 44901 of title 49, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

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

''(g) AIR CARGO ON PASSENGER AIRCRAFT.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act, the Secretary of Homeland Security, acting through the Administrator of the Transportation Security Administration, shall establish a system to screen all cargo transported on passenger aircraft operated by an air carrier or foreign air carrier in air transportation or intrastate air transportation to ensure the security of all such passenger aircraft carrying cargo.

''(2) MINIMUM STANDARDS.—The system referred to in paragraph (1) shall require, at a minimum, that the equipment, technology, procedures, personnel, or other methods determined by the Administrator of the Transportation Security Administration, provide a level of security comparable to the level of security in effect for passenger checked baggage.

''(3) REGULATIONS.—

''(A) INTERIM FINAL RULE.—The Secretary of Homeland Security may issue an interim final rule as a temporary regulation to implement this subsection without regard to the provisions of chapter 5 of title 5.

''(B) FINAL RULE.—

''(i) IN GENERAL.—If the Secretary issues an interim final rule under subparagraph (A), the Secretary shall issue, not later than 1 year after the effective date of the interim final rule, a final rule as a permanent regulation to implement this subsection in accordance with the provisions of chapter 5 of title 5.

''(ii) FAILURE TO ACT.—If the Secretary does not issue a final rule in accordance with clause (i) on or before the last day of the 1-year period referred to in clause (i), the Secretary shall submit a report to the Congress explaining why the final rule was not timely issued and providing an estimate of the earliest date on which the final rule will be issued. The Secretary shall submit the first such report within 10 days after such last day and submit a report to the Congress containing updated information every 60 days thereafter until the final rule is issued.

''(iii) SUPERSEDING OF INTERIM FINAL RULE.—The final rule issued in accordance with this subparagraph shall supersede the interim final rule issued under subparagraph (A).

''(4) REPORT.—Not later than 1 year after the date on which the system required by paragraph (1) is established, the Secretary shall transmit a report to Congress that details and explains the system.''.

(b) ASSESSMENT OF EXEMPTIONS.—

(1) TSA ASSESSMENT OF EXEMPTIONS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, through the Administrator of the Transportation Security Administration, shall submit a report to Congress and to the Comptroller General containing an assessment of each exemption granted under section 44901(i) of title 49, United States Code, for the screening required by section 44901(g)(1) of that title for cargo transported on passenger aircraft and an analysis to assess the risk of maintaining such exemption. The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(B) CONTENTS.—The report shall include—

(i) the rationale for each exemption;

(ii) a statement of the percentage of cargo that is not screened as a result of each exemption;

(iii) the impact of each exemption on aviation security;

(iv) the projected impact on the flow of commerce of eliminating such exemption; and

(v) a statement of any plans, and the rationale, for maintaining, changing, or eliminating each exemption.

(2) GAO ASSESSMENT.—Not later than 120 days after the date on which the report required under paragraph (1) is submitted, the Comptroller General shall review the report and provide to Congress an assessment of the methodology used for determinations made by the Secretary for maintaining, changing, or eliminating an exemption.

SEC. 1463. BLAST-RESISTANT CARGO CONTAINERS.

Section 44901 of title 49, United States Code, as amended by section 1462, is amended by adding at the end the following:

''(j) BLAST-RESISTANT CARGO CONTAINERS.—

''(1) IN GENERAL.—Before January 1, 2008, the Administrator of the Transportation Security Administration shall—

''(A) evaluate the results of the blast-resistant cargo container pilot program instituted before the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act;

''(B) based on that evaluation, begin the acquisition of a sufficient number of blast-resistant cargo containers to meet the requirements of the Transportation Security Administration's cargo security program under subsection (g); and

''(C) develop a system under which the Administrator—

''(i) will make such containers available for use by passenger aircraft operated by air carriers or foreign air carriers in air transportation or intrastate air transportation on a random or risk-assessment basis as determined by the Administrator, in sufficient number to enable the carriers to meet the requirements of the Administration's cargo security system; and

''(ii) provide for the storage, maintenance, and distribution of such containers.

''(2) DISTRIBUTION TO AIR CARRIERS.—Within 90 days after the date on which the Administrator completes development of the system required by paragraph (1)(C), the Administrator of the Transportation Security Administration shall implement that system and begin making blast-resistant cargo containers available to such carriers as necessary.''.

SEC. 1464. PROTECTION OF AIR CARGO ON PASSENGER PLANES FROM EXPLOSIVES.

(a) TECHNOLOGY RESEARCH AND PILOT PROJECTS.—

(1) RESEARCH AND DEVELOPMENT.—The Secretary of Homeland Security shall expedite research and development for technology that can disrupt or prevent an explosive device from being introduced onto a passenger plane or from damaging a passenger plane while in flight or on the ground. The research shall include blast resistant cargo containers and other promising technology and will be used in concert with implementation of section 44901(j) of title 49, United States Code, as amended by section 1463 of this title.

(2) PILOT PROJECTS.—The Secretary, in conjunction with the Secretary of Transportation, shall establish a grant program to fund pilot projects—

(A) to deploy technologies described in paragraph (1); and

(B) to test technology to expedite the recovery, development, and analysis of information from aircraft accidents to determine the cause of the accident, including deployable flight deck and voice recorders and remote location recording devices.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2008 such sums as may be necessary to carry out this section, such funds to remain available until expended.

SEC. 1465. IN-LINE BAGGAGE SCREENING.

(a) EXTENSION OF AUTHORIZATION.—Section 44923(i)(1) of title 49, United States Code, is amended by striking ''2007.'' and inserting ''2007, and $450,000,000 for each of fiscal years 2008 and 2009.''.

(b) REPORT.—Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit the report the Secretary was required by section 4019(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (49 U.S.C. 44901 note) to have submitted in conjunction with the submission of the budget for fiscal year 2006.

SEC. 1466. IN-LINE BAGGAGE SYSTEM DEPLOYMENT.

(a) IN GENERAL.—Section 44923 of title 49, United States Code, is amended—

(1) by striking ''may'' in subsection (a) and inserting ''shall'';

(2) by striking ''may'' in subsection (d)(1) and inserting ''shall'';

(3) by striking ''2007'' in subsection (h)(1) and inserting ''2028'';

(4) by striking paragraphs (2) and (3) of subsection (h) and inserting the following:

''(2) ALLOCATION.—Of the amount made available under paragraph (1) for a fiscal year, not less than $200,000,000 shall be allocated to fulfill letters of intent issued under subsection (d).

''(3) DISCRETIONARY GRANTS.—Of the amount made available under paragraph (1) for a fiscal year, up to $50,000,000 shall be used to make discretionary grants, with priority given to small hub airports and nonhub airports.''; and

(5) by redesignating subsection (i) as subsection (j), and inserting after subsection (h) the following:

''(i) LEVERAGED FUNDING.—For purposes of this section, a grant under subsection (a) to an airport sponsor to service an obligation issued by or on behalf of that sponsor to fund a project described in subsection (a) shall be considered to be a grant for that project.''.

(b) PRIORITIZATION OF PROJECTS.—

(1) IN GENERAL.—The Administrator shall create a prioritization schedule for airport security improvement projects described in section 44923(b) of title 49, United States Code, based on risk and other relevant factors, to be funded under the grant program provided by that section. The schedule shall include both hub airports (as defined in section 41731(a)(3) of title 49, United States Code) and nonhub airports (as defined in section 41731(a)4) of title 49, United States Code).

(2) AIRPORTS THAT HAVE COMMENCED PROJECTS.—The schedule shall include airports that have incurred eligible costs associated with development of partial in-line baggage systems before the date of enactment of this Act in reasonable anticipation of receiving a grant under section 44923 of title 49, United States Code, in reimbursement of those costs but that have not received such a grant.

(3) REPORT.—Within 180 days after the date of enactment of this Act, the Administrator shall provide a copy of the prioritization schedule, a corresponding timeline, and a description of the funding allocation under section 44923 of title 49, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security.

SEC. 1467. RESEARCH AND DEVELOPMENT OF AVIATION TRANSPORTATION SECURITY TECHNOLOGY.

Section 137(a) of the Aviation and Transportation Security Act (49 U.S.C. 44912 note) is amended—

(1) by striking ''2002 through 2006,'' and inserting ''2006 through 2009,'';

(2) by striking ''aviation'' and inserting ''transportation''; and

(3) by striking ''2002 and 2003'' and inserting ''2006 through 2009''.

SEC. 1468. CERTAIN TSA PERSONNEL LIMITATIONS NOT TO APPLY.

(a) IN GENERAL.—Notwithstanding any provision of law to the contrary, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after fiscal year 2007.

(b) AVIATION SECURITY.—Notwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes.

SEC. 1469. SPECIALIZED TRAINING.

The Administrator of the Transportation Security Administration shall provide advanced training to transportation security officers for the development of specialized security skills, including behavior observation and analysis, explosives detection, and document examination, in order to enhance the effectiveness of layered transportation security measures.

SEC. 1470. EXPLOSIVE DETECTION AT PASSENGER SCREENING CHECKPOINTS.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue the strategic plan the Secretary was required by section 44925(a) of title 49, United States Code, to have issued within 90 days after the date of enactment of the Intelligence Reform and Terrorism Prevention Act of 2004.

(b) DEPLOYMENT.—Section 44925(b) of title 49, United States Code, is amended by adding at the end the following:

''(3) FULL DEPLOYMENT.—The Secretary shall begin full implementation of the strategic plan within 1 year after the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act.''.

SEC. 1471. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT.

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:

''SEC. 432. APPEAL AND REDRESS PROCESS FOR PASSENGERS WRONGLY DELAYED OR PROHIBITED FROM BOARDING A FLIGHT.

''(a) IN GENERAL.—The Secretary shall establish a timely and fair process for individuals who believe they have been delayed or prohibited from boarding a commercial aircraft because they were wrongly identified as a threat under the regimes utilized by the Transportation Security Administration, the Bureau of Customs and Border Protection, or any other Department entity.

''(b) OFFICE OF APPEALS AND REDRESS.—

''(1) ESTABLISHMENT.—The Secretary shall establish an Office of Appeals and Redress to implement, coordinate, and execute the process established by the Secretary pursuant to subsection (a). The Office shall include representatives from the Transportation Security Administration, U.S. Customs and Border Protection, and other agencies or offices as appropriate.

''(2) RECORDS.—The process established by the Secretary pursuant to subsection (a) shall include the establishment of a method by which the Office of Appeals and Redress, under the direction of the Secretary, will be able to maintain a record of air carrier passengers and other individuals who have been misidentified and have corrected erroneous information.

''(3) INFORMATION.—To prevent repeated delays of an misidentified passenger or other individual, the Office of Appeals and Redress shall—

''(A) ensure that the records maintained under this subsection contain information determined by the Secretary to authenticate the identity of such a passenger or individual;

''(B) furnish to the Transportation Security Administration, the Bureau of Customs and Border Protection, or any other appropriate Department entity, upon request, such information as may be necessary to allow such agencies to assist air carriers in improving their administration of the advanced passenger prescreening system and reduce the number of false positives; and

''(C) require air carriers and foreign air carriers take action to properly and automatically identify passengers determined, under the process established under subsection (a), to have been wrongly identified.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 431 the following:

''Sec. 432. Appeal and redress process for passengers wrongly delayed or prohibited from boarding a flight''.

SEC. 1472. STRATEGIC PLAN TO TEST AND IMPLEMENT ADVANCED PASSENGER PRESCREENING SYSTEM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Administrator of the Transportation Security Administration, shall submit to the Congress a plan that—

(1) describes the system to be utilized by the Department of Homeland Security to assume the performance of comparing passenger information, as defined by the Administrator of the Transportation Security Administration, to the automatic selectee and no-fly lists, as well as the consolidated and integrated terrorist watchlist maintained by the Federal Government;

(2) provides a projected timeline for each phase of testing and implementation of the system;

(3) explains how the system will be integrated with the prescreening system for passengers on international flights; and

(4) describes how the system complies with section 552a of title 5, United States Code.

(b) GAO ASSESSMENT.—No later than 90 days 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 Committee on Homeland Security that—

(1) describes the progress made by the Transportation Security Administration in implementing the Secure Flight passenger pre-screening program;

(2) describes the effectiveness of the current appeals process for passengers wrongly assigned to the no-fly and terrorist watch lists;

(3) describes the Transportation Security Administration's plan to protect private passenger information and progress made in integrating the system with the pre-screening program for international flights operated by the Bureau of Customs and Border Protection;

(4) provides a realistic determination of when the system will be completed; and

(5) includes any other relevant observations or recommendations the Comptroller General deems appropriate.

SEC. 1473. REPAIR STATION SECURITY.

(a) CERTIFICATION OF FOREIGN REPAIR STATIONS SUSPENSION.—If the regulations required by section 44924(f) of title 49, United States Code, are not issued within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration may not certify any foreign repair station under part 145 of title 14, Code of Federal Regulations, after such 90th day unless the station was previously certified by the Administration under that part.

(b) 6-MONTH DEADLINE FOR SECURITY REVIEW AND AUDIT.—Subsections (a) and (d) of section 44924 of title 49, United States Code, are each amended by striking ''18 months'' and inserting ''6 months''.

SEC. 1474. GENERAL AVIATION SECURITY.

Section 44901 of title 49, United States Code, as amended by section 1463, is amended by adding at the end the following:

''(k) GENERAL AVIATION AIRPORT SECURITY PROGRAM.—

''(1) IN GENERAL.—Within 1 year after the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act, the Administrator of the Transportation Security Administration shall—

''(A) develop a standardized threat and vulnerability assessment program for general aviation airports (as defined in section 47134(m)); and

''(B) implement a program to perform such assessments on a risk-assessment basis at general aviation airports.

''(2) GRANT PROGRAM.—Within 6 months after date of enactment of the Transportation Security and Interoperable Communication Capabilities Act, the Administrator shall initiate and complete a study of the feasibility of a program, based on a risk-managed approach, to provide grants to general aviation airport operators for projects to upgrade security at general aviation airports (as defined in section 47134(m)). If the Administrator determines that such a program is feasible, the Administrator shall establish such a program.

''(3) APPLICATION TO FOREIGN-REGISTERED GENERAL AVIATION AIRCRAFT.—Within 180 days after the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act, the Administrator shall develop a risk-based system under which—

''(A) foreign-registered general aviation aircraft, as identified by the Administrator, in coordination with the Administrator of the Federal Aviation Administration, are required to submit passenger information at the same time as, and in conjunction with, advance notification requirements for Customs and Border Protection before entering United States airspace; and

''(B) such information is checked against appropriate databases maintained by the Transportation Security Administration.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out any program established under paragraph (2).''.

SEC. 1475. SECURITY CREDENTIALS FOR AIRLINE CREWS.

Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration shall, after consultation with airline, airport, and flight crew representatives, transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of its efforts to institute a sterile area access system or method that will enhance security by properly identifying authorized airline flight deck and cabin crew members at screening checkpoints and granting them expedited access through screening checkpoints. The Administrator shall include in the report recommendations on the feasibility of implementing the system for the domestic aviation industry beginning 1 year after the date on which the report is submitted. The Administrator shall begin full implementation of the system or method not later than 1 year after the date on which the Administrator transmits the report.

SEC. 1476. NATIONAL EXPLOSIVES DETECTION CANINE TEAM TRAINING CENTER.

(a) IN GENERAL.—

(1) INCREASED TRAINING CAPACITY.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall begin to increase the capacity of the Department of Homeland Security's National Explosives Detection Canine Team Program at Lackland Air Force Base to accommodate the training of up to 200 canine

teams annually by the end of calendar year 2008.

(2) EXPANSION DETAILED REQUIREMENTS.—The expansion shall include upgrading existing facilities, procurement of additional canines, and increasing staffing and oversight commensurate with the increased training and deployment capabilities required by paragraph (1).

(3) ULTIMATE EXPANSION.—The Secretary shall continue to increase the training capacity and all other necessary program expansions so that by December 31, 2009, the number of canine teams sufficient to meet the Secretary's homeland security mission, as determined by the Secretary on an annual basis, may be trained at this facility.

(b) ALTERNATIVE TRAINING CENTERS.—Based on feasibility and to meet the ongoing demand for quality explosives detection canines teams, the Secretary shall explore the options of creating the following:

(1) A standardized Transportation Security Administration approved canine program that private sector entities could use to provide training for additional explosives detection canine teams. For any such program, the Secretary—

(A) may coordinate with key stakeholders, including international, Federal, State, local, private sector and academic entities, to develop best practice guidelines for such a standardized program;

(B) shall require specific training criteria to which private sector entities must adhere as a condition of participating in the program; and

(C) shall review the status of these private sector programs on at least an annual basis.

(2) Expansion of explosives detection canine team training to at least 2 additional national training centers, to be modeled after the Center of Excellence established at Lackland Air Force Base.

(c) DEPLOYMENT.—The Secretary—

(1) shall use the additional explosives detection canine teams as part of the Department's layers of enhanced mobile security across the Nation's transportation network and to support other homeland security programs, as deemed appropriate by the Secretary; and

(2) may make available explosives detection canine teams to all modes of transportation, for areas of high risk or to address specific threats, on an as-needed basis and as otherwise deemed appropriate by the Secretary.

SEC. 1477. LAW ENFORCEMENT BIOMETRIC CREDENTIAL.

(a) IN GENERAL.—Paragraph (6) of section 44903(h) of title 49, United States Code, is amended to read as follows:

''(6) USE OF BIOMETRIC TECHNOLOGY FOR ARMED LAW ENFORCEMENT TRAVEL.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Improving America's Security Act of 2007, the Secretary of Homeland Security shall—

''(i) consult with the Attorney General concerning implementation of this paragraph;

''(ii) issue any necessary rulemaking to implement this paragraph; and

''(iii) establishing a national registered armed law enforcement program for law enforcement officers needing to be armed when traveling by air.

''(B) PROGRAM REQUIREMENTS.—The program shall—

''(i) establish a credential or a system that incorporates biometric technology and other applicable technologies;

''(ii) provide a flexible solution for law enforcement officers who need to be armed when traveling by air on a regular basis and for those who need to be armed during temporary travel assignments;

''(iii) be coordinated with other uniform credentialing initiatives including the Homeland Security Presidential Directive 12;

''(iv) be applicable for all Federal, State, local, tribal and territorial government law enforcement agencies; and

''(v) establish a process by which the travel credential or system may be used to verify the identity, using biometric technology, of a Federal, State, local, tribal, or territorial law enforcement officer seeking to carry a weapon on board an aircraft, without unnecessarily disclosing to the public that the individual is a law enforcement officer.

''(C) PROCEDURES.—In establishing the program, the Secretary shall develop procedures—

''(i) to ensure that only Federal, State, local, tribal, and territorial government law enforcement officers with a specific need to be armed when traveling by air are issued a law enforcement travel credential;

''(ii) to preserve the anonymity of the armed law enforcement officer without calling undue attention to the individual's identity;

''(iii) to resolve failures to enroll, false matches, and false non-matches relating to use of the law enforcement travel credential or system; and

''(iv) to invalidate any law enforcement travel credential or system that is lost, stolen, or no longer authorized for use.''.

(b) REPORT.—Within 180 days after implementing the national registered armed law enforcement program required by section 44903(h)(6) of title 49, United States Code, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation. If the Secretary has not implemented the program within 180 days after the date of enactment of this Act, the Secretary shall issue a report to the Committee within 180 days explaining the reasons for the failure to implement the program within the time required by that section, and a further report within each successive 180-day period until the program is implemented explaining the reasons for such further delays in implementation until the program is implemented. The Secretary shall submit each report required by this subsection in classified format.

SEC. 1478. EMPLOYEE RETENTION INTERNSHIP PROGRAM.

The Assistant Secretary of Homeland Security (Transportation Security Administration), shall establish a pilot program at a small hub airport, a medium hub airport, and a large hub airport (as those terms are defined in paragraphs (42), (31), and (29), respectively, of section 40102 of title 49, United States Code) for training students to perform screening of passengers and property under section 44901 of title 49, United States Code. The program shall be an internship for preemployment training of final-year students from public and private secondary schools located in nearby communities. Under the program, participants shall perform only those security responsibilities determined to be appropriate for their age and in accordance with applicable law and shall be compensated for training and services time while participating in the program.

SEC. 1479. PILOT PROJECT TO REDUCE THE NUMBER OF TRANSPORTATION SECURITY OFFICERS AT AIRPORT EXIT LANES.

(a) IN GENERAL.—The Administrator of the Transportation Security Administration (referred to in this section as the ''Administrator'') shall conduct a pilot program to identify technological solutions for reducing the number of Transportation Security Administration employees at airport exit lanes.

(b) PROGRAM COMPONENTS.—In conducting the pilot program under this section, the Administrator shall—

(1) utilize different technologies that protect the integrity of the airport exit lanes from unauthorized entry; and

(2) work with airport officials to deploy such technologies in multiple configurations at a selected airport or airports at which some of the exits are not co-located with a screening checkpoint.

(c) REPORTS.—

(1) INITIAL BRIEFING.—Not later than 180 days after the enactment of this Act, the Administrator shall conduct a briefing to the congressional committees set forth in paragraph (3) that describes—

(A) the airports selected to participate in the pilot program;

(B) the potential savings from implementing the technologies at selected airport exits;

(C) the types of configurations expected to be deployed at such airports; and

(D) the expected financial contribution from each airport.

(2) FINAL REPORT.—Not later than 1 year after the technologies are deployed at the airports participating in the pilot program, the Administrator shall submit a final report to the congressional committees described in paragraph (3) that describes—

(A) the security measures deployed;

(B) the projected cost savings; and

(C) the efficacy of the program and its applicability to other airports in the United States.

(3) CONGRESSIONAL COMMITTEES.—The reports required under this subsection shall be submitted to—

(A) the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Committee on Appropriations of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on Homeland Security of the House of Representatives; and

(E) the Committee on Appropriations of the House of Representatives.

(d) USE OF EXISTING FUNDS.—Provisions contained within this section will be executed using existing funds.

Subtitle C—Interoperable Emergency Communications

SEC. 1481. INTEROPERABLE EMERGENCY COMMUNICATIONS.

(a) IN GENERAL.—Section 3006 of Public Law 109–171 (47 U.S.C. 309 note) is amended—

(1) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

''(1) may take such administrative action as is necessary to establish and implement a grant program to assist public safety agencies—

''(A) in conducting statewide or regional planning and coordination to improve the interoperability of emergency communications;

''(B) in supporting the design and engineering of interoperable emergency communications systems;

''(C) in supporting the acquisition or deployment of interoperable communications equipment, software, or systems that improve or advance the interoperability with public safety communications systems;

''(D) in obtaining technical assistance and conducting training exercises related to the use of interoperable emergency communications equipment and systems; and

''(E) in establishing and implementing a strategic technology reserve to pre-position or secure interoperable communications in advance for immediate deployment in an emergency or major disaster (as defined in section 102(2) of Public Law 93–288 (42 U.S.C. 5122)); and

''(2) shall make payments of not to exceed $1,000,000,000, in the aggregate, through fiscal

year 2010 from the Digital Television Transition and Public Safety Fund established under section 309(j)(8)(E) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(E)) to carry out the grant program established under paragraph (1), of which not more than $100,000,000, in the aggregate, may be allocated for grants under paragraph (1)(E).'';

(2) by redesignating subsections (b), (c), and (d) as subsections (l), (m), and (n), respectively, and inserting after subsection (a) the following:

''(b) EXPEDITED IMPLEMENTATION.—Pursuant to section 4 of the Call Home Act of 2006, no less than $1,000,000,000 shall be awarded for grants under subsection (a) no later than September 30, 2007, subject to the receipt of qualified applications as determined by the Assistant Secretary.

''(c) ALLOCATION OF FUNDS.—In awarding grants under subparagraphs (A) through (D) of subsection (a)(1), the Assistant Secretary shall ensure that grant awards—

''(1) result in distributions to public safety entities among the several States that are consistent with section 1014(c)(3) of the USA PATRIOT ACT (42 U.S.C. 3714(c)(3)); and

''(2) are prioritized based upon threat and risk factors that reflect an all-hazards approach to communications preparedness and that takes into account the risks associated with, and the likelihood of the occurrence of, terrorist attacks or natural catastrophes (including, but not limited to, hurricanes, tornados, storms, high water, winddriven water, tidal waves, tsunami, earthquakes, volcanic eruptions, landslides, mudslides, snow and ice storms, forest fires, or droughts) in a State.

''(d) ELIGIBILITY.—To be eligible for assistance under the grant program established under subsection (a), an applicant shall submit an application, at such time, in such form, and containing such information as the Assistant Secretary may require, including—

''(1) a detailed explanation of how assistance received under the program would be used to improve regional, State, or local communications interoperability and ensure interoperability with other appropriate public safety agencies in an emergency or a major disaster; and

''(2) assurance that the equipment and system would—

''(A) be compatible with the communications architecture developed under section 7303(a)(1)(E) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1)(E));

''(B) meet any voluntary consensus standards developed under section 7303(a)(1)(D) of that Act (6 U.S.C. 194(a)(1)(D)) to the extent that such standards exist for a given category of equipment; and

''(C) be consistent with the common grant guidance established under section 7303(a)(1)(H) of that Act (6 U.S.C. 194(a)(1)(H)).

''(e) CRITERIA FOR CERTAIN GRANTS.—In awarding grants under subparagraphs (A) through (D) of subsection (a)(1), the Assistant Secretary shall ensure that all grants funded are consistent with Federal grant guidance established by the SAFECOM Program within the Department of Homeland Security.

''(f) CRITERIA FOR STRATEGIC TECHNOLOGY RESERVE GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a)(1)(E), the Assistant Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the reserve involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems (and communications service related to such equipment, supplies, and systems), rather than the warehousing or storage of equipment and supplies currently available at the time the reserve is established.

''(2) REQUIREMENTS AND CHARACTERISTICS.—A reserve established under paragraph (1) shall—

''(A) be capable of re-establishing communications when existing infrastructure is damaged or destroyed in an emergency or a major disaster;

''(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite-enabled equipment (and related communications service), Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

''(C) include equipment on hand for the Governor of each State, key emergency response officials, and appropriate State or local personnel;

''(D) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources; and

''(E) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts.

''(3) ADDITIONAL CHARACTERISTICS.—Portions of the reserve may be virtual and may include items donated on an in-kind contribution basis.

''(4) CONSULTATION.—In developing the reserve, the Assistant Secretary shall seek advice from the Secretary of Defense and the Secretary of Homeland Security, as well as national public safety organizations, emergency managers, State, local, and tribal governments, and commercial providers of such systems and equipment.

''(5) ALLOCATION AND USE OF FUNDS.—The Assistant Secretary shall allocate—

''(A) a portion of the reserve's funds for block grants to States to enable each State to establish a strategic technology reserve within its borders in a secure location to allow immediate deployment; and

''(B) a portion of the reserve's funds for regional Federal strategic technology reserves to facilitate any Federal response when necessary, to be held in each of the Federal Emergency Management Agency's regional offices, including Boston, Massachusetts (Region 1), New York, New York (Region 2), Philadelphia, Pennsylvania (Region 3), Atlanta, Georgia (Region 4), Chicago, Illinois (Region 5), Denton, Texas (Region 6), Kansas City, Missouri (Region 7), Denver, Colorado (Region 8), Oakland, California (Region 9), Bothell, Washington (Region 10), and each of the noncontiguous States for immediate deployment.

''(g) VOLUNTARY CONSENSUS STANDARDS.—In carrying out this section, the Assistant Secretary, in cooperation with the Secretary of Homeland Security shall identify and, if necessary, encourage the development and implementation of, voluntary consensus standards for interoperable communications systems to the greatest extent practicable, but shall not require any such standard.

''(h) USE OF ECONOMY ACT.—In implementing the grant program established under subsection (a)(1), the Assistant Secretary may seek assistance from other Federal agencies in accordance with section 1535 of title 31, United States Code.

''(i) INSPECTOR GENERAL REPORT.—Beginning with the first fiscal year beginning after the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act, the Inspector General of the Department of Commerce shall conduct an annual assessment of the management of the grant program implemented under subsection (a)(1) and transmit a report containing the findings of that assessment and any recommendations related thereto to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce.

''(j) DEADLINE FOR IMPLEMENTATION PROGRAM RULES.—Within 90 days after the date of enactment of the Transportation Security and Interoperable Communication Capabilities Act, the Assistant Secretary, in consultation with the Secretary of Homeland Security and the Federal Communications Commission, shall promulgate final program rules for the implementation of this section.

''(k) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or interpreted to preclude the use of funds under this section by any public safety agency for interim or long-term Internet Protocol-based interoperable solutions, notwithstanding compliance with the Project 25 standard.''; and

(3) by striking paragraph (3) of subsection (n), as so redesignated.

(b) FCC REPORT ON EMERGENCY COMMUNICATIONS BACK-UP SYSTEM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission, in coordination with the Assistant Secretary of Commerce for Communications and Information and the Secretary of Homeland Security, shall evaluate the technical feasibility of creating a back-up emergency communications system that complements existing communications resources and takes into account next generation and advanced telecommunications technologies. The overriding objective for the evaluation shall be providing a framework for the development of a resilient interoperable communications system for emergency responders in an emergency. The Commission shall evaluate all reasonable options, including satellites, wireless, and terrestrial-based communications systems and other alternative transport mechanisms that can be used in tandem with existing technologies.

(2) FACTORS TO BE EVALUATED.—The evaluation under paragraph (1) shall include—

(A) a survey of all Federal agencies that use terrestrial or satellite technology for communications security and an evaluation of the feasibility of using existing systems for the purpose of creating such an emergency back-up public safety communications system;

(B) the feasibility of using private satellite, wireless, or terrestrial networks for emergency communications;

(C) the technical options, cost, and deployment methods of software, equipment, handsets or desktop communications devices for public safety entities in major urban areas, and nationwide; and

(D) the feasibility and cost of necessary changes to the network operations center of terrestrial-based or satellite systems to enable the centers to serve as emergency back-up communications systems.

(3) REPORT.—Upon the completion of the evaluation under subsection (a), the Commission shall submit a report to Congress that details the findings of the evaluation, including a full inventory of existing public and private resources most efficiently capable of providing emergency communications.

(c) JOINT ADVISORY COMMITTEE ON COMMUNICATIONS CAPABILITIES OF EMERGENCY MEDICAL CARE FACILITIES.—

(1) ESTABLISHMENT.—The Assistant Secretary of Commerce for Communications and Information and the Chairman of Federal Communications Commission, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human

Services, shall establish a joint advisory committee to examine the communications capabilities and needs of emergency medical care facilities. The joint advisory committee shall be composed of individuals with expertise in communications technologies and emergency medical care, including representatives of Federal, State and local governments, industry and non-profit health organizations, and academia and educational institutions.

(2) DUTIES.—The joint advisory committee shall—

(A) assess specific communications capabilities and needs of emergency medical care facilities, including the including improvement of basic voice, data, and broadband capabilities;

(B) assess options to accommodate growth of basic and emerging communications services used by emergency medical care facilities;

(C) assess options to improve integration of communications systems used by emergency medical care facilities with existing or future emergency communications networks; and

(D) report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce, within 6 months after the date of enactment of this Act.

(d) AUTHORIZATION OF EMERGENCY MEDICAL COMMUNICATIONS PILOT PROJECTS.—

(1) IN GENERAL.—The Assistant Secretary of Commerce for Communications and Information may establish not more than 10 geographically dispersed project grants to emergency medical care facilities to improve the capabilities of emergency communications systems in emergency medical care facilities.

(2) MAXIMUM AMOUNT.—The Assistant Secretary may not provide more than $2,000,000 in Federal assistance under the pilot program to any applicant.

(3) COST SHARING.—The Assistant Secretary may not provide more than 50 percent of the cost, incurred during the period of the grant, of any project under the pilot program.

(4) MAXIMUM PERIOD OF GRANTS.—The Assistant Secretary may not fund any applicant under the pilot program for more than 3 years.

(5) DEPLOYMENT AND DISTRIBUTION.—The Assistant Secretary shall seek to the maximum extent practicable to ensure a broad geographic distribution of project sites.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Assistant Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

SEC. 1482. RULE OF CONSTRUCTION.

(a) IN GENERAL.—Title VI of the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295) is amended by adding at the end the following:

"SEC. 699B. RULE OF CONSTRUCTION.

''Nothing in this title, including the amendments made by this title, may be construed to reduce or otherwise limit the authority of the Department of Commerce or the Federal Communications Commission.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as though enacted as part of the Department of Homeland Security Appropriations Act, 2007.

SEC. 1483. CROSS BORDER INTEROPERABILITY REPORTS.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Federal Communications Commission, in conjunction with the Department of Homeland Security, the Office of Management of Budget, and the Department of State shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on—

(1) the status of the mechanism established by the President under section 7303(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(c)) for coordinating cross border interoperability issues between—

(A) the United States and Canada; and

(B) the United States and Mexico;

(2) the status of treaty negotiations with Canada and Mexico regarding the coordination of the re-banding of 800 megahertz radios, as required under the final rule of the Federal Communication Commission in the ''Private Land Mobile Services; 800 MHz Public Safety Interface Proceeding'' (WT Docket No. 02–55; ET Docket No. 00–258; ET Docket No. 95–18, RM–9498; RM–10024; FCC 04–168,) including the status of any outstanding issues in the negotiations between—

(A) the United States and Canada; and

(B) the United States and Mexico;

(3) communications between the Commission and the Department of State over possible amendments to the bilateral legal agreements and protocols that govern the coordination process for license applications seeking to use channels and frequencies above Line A;

(4) the annual rejection rate for the last 5 years by the United States of applications for new channels and frequencies by Canadian private and public entities; and

(5) any additional procedures and mechanisms that can be taken by the Commission to decrease the rejection rate for applications by United States private and public entities seeking licenses to use channels and frequencies above Line A.

(b) UPDATED REPORTS TO BE FILED ON THE STATUS OF TREATY OF NEGOTIATIONS.—The Federal Communications Commission, in conjunction with the Department of Homeland Security, the Office of Management of Budget, and the Department of State shall continually provide updated reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the status of treaty negotiations under subsection (a)(2) until the appropriate United States treaty has been revised with each of—

(1) Canada; and

(2) Mexico.

(c) INTERNATIONAL NEGOTIATIONS TO REMEDY SITUATION.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Department of State shall report to Congress on—

(1) the current process for considering applications by Canada for frequencies and channels by United States communities above Line A;

(2) the status of current negotiations to reform and revise such process;

(3) the estimated date of conclusion for such negotiations;

(4) whether the current process allows for automatic denials or dismissals of initial applications by the Government of Canada, and whether such denials or dismissals are currently occurring; and

(5) communications between the Department of State and the Federal Communications Commission pursuant to subsection (a)(3).

SEC. 1484. EXTENSION OF SHORT QUORUM.

Notwithstanding section 4(d) of the Consumer Product Safety Act (15 U.S.C. 2053(d)), 2 members of the Consumer Product Safety Commission, if they are not affiliated with the same political party, shall constitute a quorum for the 6-month period beginning on the date of enactment of this Act.

SEC. 1485. REQUIRING REPORTS TO BE SUBMITTED TO CERTAIN COMMITTEES.

(a) SENATE COMMERCE, SCIENCE, AND TRANSPORTATION COMMITTEE.—The Committee on Commerce, Science, and Transportation of the Senate shall receive the reports required by the following provisions of law in the same manner and to the same extent that the reports are to be received by the Committee on Homeland Security and Governmental Affairs of the Senate:

(1) Section 1016(j)(1) of the Intelligence Reform and Terrorist Prevention Act of 2004 (6 U.S.C. 485(j)(1)).

(2) Section 121(c) of this Act.

(3) Section 2002(d)(3) of the Homeland Security Act of 2002, as added by section 202 of this Act.

(4) Subsections (a) and (b)(5) of section 2009 of the Homeland Security Act of 2002, as added by section 202 of this Act.

(5) Section 302(d) of this Act.

(6) Section 7215(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 123(d)).

(7) Section 7209(b)(1)(C) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note).

(8) Section 604(c) of this Act.

(9) Section 806 of this Act.

(10) Section 903(d) of this Act.

(11) Section 510(a)(7) of the Homeland Security Act of 2002 (6 U.S.C. 320(a)(7)).

(12) Section 510(b)(7) of the Homeland Security Act of 2002 (6 U.S.C. 320(b)(7)).

(13) Section 1102(b) of this Act.

(b) SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.—The Committee on Homeland Security and Governmental Affairs of the Senate shall receive the reports required by the following provisions of law in the same manner and to the same extent that the reports are to be received by the Committee on Commerce, Science, and Transportation of the Senate:

(1) Section 1421(c) of this Act.

(2) Section 1423(f)(3)(A) of this Act.

(3) Section 1428 of this Act.

(4) Section 1429(d) of this Act.

(5) Section 114(v)(4)(A)(i) of title 49, United States Code.

(6) Section 1441(a)(7) of this Act.

(7) Section 1441(b)(2) of this Act.

(8) Section 1445 of this Act.

(9) Section 1446(f) of this Act.

(10) Section 1447(f)(1) of this Act.

(11) Section 1448(d)(1) of this Act.

(12) Section 1466(b)(3) of this Act.

(13) Section 1472(b) of this Act.

(14) Section 1475 of this Act.

(15) Section 3006(i) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

(16) Section 1481(c) of this Act.

(17) Subsections (a) and (b) of section 1483 of this Act.

TITLE XV—PUBLIC TRANSPORTATION TERRORISM PREVENTION

SEC. 1501. SHORT TITLE.

This title may be cited as the ''Public Transportation Terrorism Prevention Act of 2007''.

SEC. 1502. FINDINGS.

Congress finds that—

(1) 182 public transportation systems throughout the world have been primary target of terrorist attacks;

(2) more than 6,000 public transportation agencies operate in the United States;

(3) people use public transportation vehicles 33,000,000 times each day;

(4) the Federal Transit Administration has invested $84,800,000,000 since 1992 for construction and improvements;

(5) the Federal Government appropriately invested nearly $24,000,000,000 in fiscal years 2002 through 2006 to protect our Nation's aviation system;

(6) the Federal Government has allocated $386,000,000 in fiscal years 2003 through 2006 to protect public transportation systems in the United States; and

(7) the Federal Government has invested $7.53 in aviation security improvements per passenger boarding, but only $0.008 in public transportation security improvements per passenger boarding.

SEC. 1503. SECURITY ASSESSMENTS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of the enactment of this Act, the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary.

(2) REVIEW.—Not later than July 31, 2007, the Secretary shall review and augment the security assessments received under paragraph (1).

(3) ALLOCATIONS.—The Secretary shall use the security assessments received under paragraph (1) as the basis for allocating grant funds under section 1504, unless the Secretary notifies the Committee on Banking, Housing, and Urban Affairs of the Senate that the Secretary has determined an adjustment is necessary to respond to an urgent threat or other significant factors.

(4) SECURITY IMPROVEMENT PRIORITIES.—Not later than September 30, 2007, the Secretary, after consultation with the management and employee representatives of each public transportation system for which a security assessment has been received under paragraph (1) and with appropriate State and local officials, shall establish security improvement priorities that will be used by public transportation agencies for any funding provided under section 1504.

(5) UPDATES.—Not later than July 31, 2008, and annually thereafter, the Secretary shall—

(A) update the security assessments referred to in this subsection; and

(B) conduct security assessments of all public transportation agencies considered to be at greatest risk of a terrorist attack.

(b) USE OF SECURITY ASSESSMENT INFORMATION.—The Secretary shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security; and

(2) to design a security improvement strategy that—

(A) minimizes terrorist threats to public transportation systems; and

(B) maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) BUS AND RURAL PUBLIC TRANSPORTATION SYSTEMS.—Not later than July 31, 2007, the Secretary shall conduct security assessments, appropriate to the size and nature of each system, to determine the specific needs of—

(1) local bus-only public transportation systems; and

(2) selected public transportation systems that receive funds under section 5311 of title 49, United States Code.

SEC. 1504. SECURITY ASSISTANCE GRANTS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 1503(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 1503(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) security training for public transportation employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 1503(a)(4); and

(F) other appropriate security improvements identified under section 1503(a)(4), excluding routine, ongoing personnel costs.

(c) COORDINATION WITH STATE HOMELAND SECURITY PLANS.—In establishing security improvement priorities under section 1503(a)(4) and in awarding grants for capital security improvements and operational security improvements under subsections (a) and (b), respectively, the Secretary shall ensure that the actions of the Secretary are consistent with relevant State homeland security plans.

(d) MULTI-STATE TRANSPORTATION SYSTEMS.—In cases where a public transportation system operates in more than 1 State, the Secretary shall give appropriate consideration to the risks of the entire system, including those portions of the States into which the system crosses, in establishing security improvement priorities under section 1503(a)(4), and in awarding grants for capital security improvements and operational security improvements under subsections (a) and (b), respectively.

(e) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary shall notify the Committee on Homeland Security and Governmental Affairs and the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(f) PUBLIC TRANSPORTATION AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this section; and

(3) report annually to the Secretary on the use of grant funds received under this section.

(g) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. 1505. PUBLIC TRANSPORTATION SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of public transportation owners and operators, and nonprofit employee organizations that represent public transportation workers, shall develop and issue detailed regulations for a public transportation worker security training program to prepare public transportation workers, including front-line transit employees such as bus and rail operators, mechanics, customer service employees, maintenance employees, transit police, and security personnel, for potential threat conditions.

(b) PROGRAM ELEMENTS.—The regulations developed under subsection (a) shall require such a program to include, at a minimum, elements that address the following:

(1) Determination of the seriousness of any occurrence.

(2) Crew and passenger communication and coordination.

(3) Appropriate responses to defend oneself.

(4) Use of protective devices.

(5) Evacuation procedures (including passengers, workers, the elderly and those with disabilities).

(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.

(7) Live situational training exercises regarding various threat conditions, including tunnel evacuation procedures.

(8) Any other subject the Secretary considers appropriate.

(c) REQUIRED PROGRAMS.—

(1) IN GENERAL.—Not later than 90 days after the Secretary issues regulations under subsection (a) in final form, each public transportation system that receives a grant under this title shall develop a public transportation worker security training program in accordance with those regulations and submit it to the Secretary for approval.

(2) APPROVAL.—Not later than 30 days after receiving a public transportation system's program under paragraph (1), the Secretary shall review the program and approve it or require the public transportation system to make any revisions the Secretary considers necessary for the program to meet the regulations requirements. A public transit agency shall respond to the Secretary's comments within 30 days after receiving them.

(d) TRAINING.—

(1) IN GENERAL.—Not later than 1 year after the Secretary approves the training program developed by a public transportation system under subsection (c), the public transportation system owner or operator shall complete the training of all public transportation workers in accordance with that program.

(2) REPORT.—The Secretary shall review implementation of the training program of a representative sample of public transportation systems and report to the Senate Committee on Banking, Housing and Urban Affairs, House of Representatives Committee on Transportation and Infrastructure, the Senate Homeland Security and Government Affairs Committee and the House of Representatives Committee on Homeland Security, on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.

(e) UPDATES.—

(1) IN GENERAL.—The Secretary shall update the training regulations issued under subsection (a) from time to time to reflect new or different security threats, and require public transportation systems to revise their programs accordingly and provide additional training to their workers.

(2) PROGRAM REVISIONS.—Each public transit operator shall revise their program in accordance with any regulations under paragraph (1) and provide additional training to their front-line workers within a reasonable time after the regulations are updated.

SEC. 1506. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Secretary shall provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the ''ISAC'') established pursuant to Presidential Directive 63, to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge a fee to any public transportation agency for participating in the ISAC.

SEC. 1507. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS AND CONTRACTS.

(a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary, through the Homeland Security Advanced Research Projects Agency in the Science and Technology Directorate and in consultation with the Federal Transit Administration, shall award grants or contracts to public or private entities to conduct research into, and demonstrate technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants or contracts awarded under subsection (a)—

(1) shall be coordinated with Homeland Security Advanced Research Projects Agency activities; and

(2) may be used to—

(A) research chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(B) research imaging technologies;

(C) conduct product evaluations and testing; and

(D) research other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that is awarded a grant or contract under this section shall report annually to the Department on the use of grant or contract funds received under this section.

(d) RETURN OF MISSPENT GRANT OR CONTRACT FUNDS.—If the Secretary determines that a grantee or contractor used any portion of the grant or contract funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee or contractor shall return any amount so used to the Treasury of the United States.

SEC. 1508. REPORTING REQUIREMENTS.

(a) SEMI-ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than March 31 and September 30 each year, the Secretary shall submit a report, containing the information described in paragraph (2), to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Appropriations of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the implementation of the provisions of sections 1503 through 1506;

(B) the amount of funds appropriated to carry out the provisions of each of sections 1503 through 1506 that have not been expended or obligated; and

(C) the state of public transportation security in the United States.

(b) ANNUAL REPORT TO GOVERNORS.—

(1) IN GENERAL.—Not later than March 31 of each year, the Secretary shall submit a report to the Governor of each State with a public transportation agency that has received a grant under this title.

(2) CONTENTS.—The report submitted under paragraph (1) shall specify—

(A) the amount of grant funds distributed to each such public transportation agency; and

(B) the use of such grant funds.

SEC. 1509. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 1504(a) and remain available until expended—

(1) such sums as are necessary in fiscal year 2007;

(2) $536,000,000 for fiscal year 2008;

(3) $772,000,000 for fiscal year 2009; and

(4) $1,062,000,000 for fiscal year 2010.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 1504(b)—

(1) such sums as are necessary in fiscal year 2007;

(2) $534,000,000 for fiscal year 2008;

(3) $333,000,000 for fiscal year 2009; and

(4) $133,000,000 for fiscal year 2010.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 1505.

(d) RESEARCH.—There are authorized to be appropriated to carry out the provisions of section 1507 and remain available until expended—

(1) such sums as are necessary in fiscal year 2007;

(2) $30,000,000 for fiscal year 2008;

(3) $45,000,000 for fiscal year 2009; and

(4) $55,000,000 for fiscal year 2010.

SEC. 1510. SUNSET PROVISION.

The authority to make grants under this title shall expire on October 1, 2011.

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. DEPUTY SECRETARY OF HOMELAND SECRETARY FOR MANAGEMENT.

(a) ESTABLISHMENT AND SUCCESSION.—Section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking ''DEPUTY SECRETARY'' and inserting ''DEPUTY SECRETARIES'';

(B) by striking paragraph (6);

(C) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(D) by striking paragraph (1) and inserting the following:

''(1) A Deputy Secretary of Homeland Security.

''(2) A Deputy Secretary of Homeland Security for Management.''; and

(2) by adding at the end the following:

''(g) VACANCIES.—

''(1) VACANCY IN OFFICE OF SECRETARY.—

''(A) DEPUTY SECRETARY.—In case of a vacancy in the office of the Secretary, or of the absence or disability of the Secretary, the Deputy Secretary of Homeland Security may exercise all the duties of that office, and for the purpose of section 3345 of title 5, United States Code, the Deputy Secretary of Homeland Security is the first assistant to the Secretary.

''(B) DEPUTY SECRETARY FOR MANAGEMENT.—When by reason of absence, disability, or vacancy in office, neither the Secretary nor the Deputy Secretary of Homeland Security is available to exercise the duties of the office of the Secretary, the Deputy Secretary of Homeland Security for Management shall act as Secretary.

''(2) VACANCY IN OFFICE OF DEPUTY SECRETARY.—In the case of a vacancy in the office of the Deputy Secretary of Homeland Security, or of the absence or disability of the Deputy Secretary of Homeland Security, the Deputy Secretary of Homeland Security for Management may exercise all the duties of that office.

''(3) FURTHER ORDER OF SUCCESSION.—The Secretary may designate such other officers of the Department in further order of succession to act as Secretary.''.

(b) RESPONSIBILITIES.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended—

(1) in the section heading, by striking ''**UNDER SECRETARY**'' and inserting ''**DEPUTY SECRETARY OF HOMELAND SECURITY**'';

(2) in subsection (a)—

(A) by inserting ''The Deputy Secretary of Homeland Security for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs.'' before ''The Secretary'';

(B) by striking ''Under Secretary for Management'' and inserting ''Deputy Secretary of Homeland Security for Management'';

(C) by striking paragraph (7) and inserting the following:

''(7) Strategic planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department.''; and

(D) by striking paragraph (9), and inserting the following:

''(9) The integration and transformation process, to ensure an efficient and orderly consolidation of functions and personnel to the Department, including the development of a management integration strategy for the Department.''; and

(3) in subsection (b)—

(A) in paragraph (1), by striking ''Under Secretary for Management'' and inserting ''Deputy Secretary of Homeland Security for Management''; and

(B) in paragraph (2), by striking ''Under Secretary for Management'' and inserting ''Deputy Secretary of Homeland Security for Management''.

(c) APPOINTMENT, EVALUATION, AND REAPPOINTMENT.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended by adding at the end the following:

''(c) APPOINTMENT, EVALUATION, AND REAPPOINTMENT.—The Deputy Secretary of Homeland Security for Management—

''(1) shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who have—

''(A) extensive executive level leadership and management experience in the public or private sector;

''(B) strong leadership skills;

''(C) a demonstrated ability to manage large and complex organizations; and

''(D) a proven record in achieving positive operational results;

''(2) shall—

''(A) serve for a term of 5 years; and

''(B) be subject to removal by the President if the President—

''(i) finds that the performance of the Deputy Secretary of Homeland Security for Management is unsatisfactory; and

''(ii) communicates the reasons for removing the Deputy Secretary of Homeland Security for Management to Congress before such removal;

''(3) may be reappointed in accordance with paragraph (1), if the Secretary has made a satisfactory determination under paragraph (5) for the 3 most recent performance years;

''(4) shall enter into an annual performance agreement with the Secretary that shall set forth measurable individual and organizational goals; and

''(5) shall be subject to an annual performance evaluation by the Secretary, who shall determine as part of each such evaluation whether the Deputy Secretary of Homeland Security for Management has made satisfactory progress toward achieving the goals set out in the performance agreement required under paragraph (4).''.

(d) INCUMBENT.—The individual who serves in the position of Under Secretary for Management of the Department of Homeland Security on the date of enactment of this Act—

(1) may perform all the duties of the Deputy Secretary of Homeland Security for Management at the pleasure of the President, until a Deputy Secretary of Homeland Security for Management is appointed in accordance with subsection (c) of section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341), as added by this Act; and

(2) may be appointed Deputy Secretary of Homeland Security for Management, if such appointment is otherwise in accordance with sections 103 and 701 of the Homeland Security Act of 2002 (6 U.S.C. 113 and 341), as amended by this Act.

(e) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Under Secretary for Management of the Department of Homeland Security shall be deemed to refer to the Deputy Secretary of Homeland Security for Management.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) OTHER REFERENCE.—Section 702(a) of the Homeland Security Act of 2002 (6 U.S.C. 342(a)) is amended by striking ''Under Secretary for Management'' and inserting ''Deputy Secretary of Homeland Security for Management''.

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by striking the item relating to section 701 and inserting the following:

''Sec. 701. Deputy Secretary of Homeland Security for Management.''.

(3) EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting after the item relating to the Deputy Secretary of Homeland Security the following:

''Deputy Secretary of Homeland Security for Management.''.

SEC. 1602. SENSE OF THE SENATE REGARDING COMBATING DOMESTIC RADICALIZATION.

(a) FINDINGS.—The Senate finds the following:

(1) The United States is engaged in a struggle against a transnational terrorist movement of radical extremists seeking to exploit the religion of Islam through violent means to achieve ideological ends.

(2) The radical jihadist movement transcends borders and has been identified as a potential threat within the United States.

(3) Radicalization has been identified as a precursor to terrorism.

(4) Countering the threat of violent extremists domestically, as well as internationally, is a critical element of the plan of the United States for success in the war on terror.

(5) United States law enforcement agencies have identified radicalization as an emerging threat and have in recent years identified cases of ''homegrown'' extremists operating inside the United States with the intent to provide support for, or directly commit, a terrorist attack.

(6) The alienation of Muslim populations in the Western world has been identified as a factor in the spread of radicalization.

(7) Radicalization cannot be prevented solely through law enforcement and intelligence measures.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary, in consultation with other relevant Federal agencies, should make a priority of countering domestic radicalization and extremism by—

(1) using intelligence analysts and other experts to better understand the process of radicalization from sympathizer to activist to terrorist;

(2) recruiting employees with diverse worldviews, skills, languages, and cultural backgrounds and expertise;

(3) consulting with experts to ensure that the lexicon used within public statements is precise and appropriate and does not aid extremists by offending the American Muslim community;

(4) developing and implementing, in concert with the Attorney General and State and local corrections officials, a program to address prisoner radicalization and post-sentence reintegration;

(5) pursuing broader avenues of dialogue with the Muslim community to foster mutual respect, understanding, and trust; and

(6) working directly with State, local, and community leaders to—

(A) educate these leaders on the threat of radicalization and the necessity of taking preventative action at the local level; and

(B) facilitate the sharing of best practices from other countries and communities to encourage outreach to the American Muslim community and develop partnerships between all faiths, including Islam.

SEC. 1603. SENSE OF THE SENATE REGARDING OVERSIGHT OF HOMELAND SECURITY.

(a) FINDINGS.—The Senate finds the following:

(1) The Senate recognizes the importance and need to implement the recommendations offered by the National Commission on Terrorist Attacks Upon the United States (in this section referred to as the ''Commission'').

(2) Congress considered and passed the National Security Intelligence Reform Act of 2004 (Public Law 108–458; 118 Stat. 3643) to implement the recommendations of the Commission.

(3) Representatives of the Department testified at 165 Congressional hearings in calendar year 2004, and 166 Congressional hearings in calendar year 2005.

(4) The Department had 268 representatives testify before 15 committees and 35 subcommittees of the House of Representatives and 9 committees and 12 subcommittees of the Senate at 206 congressional hearings in calendar year 2006.

(5) The Senate has been unwilling to reform itself in accordance with the recommendation of the Commission to provide better and more streamlined oversight of the Department.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Senate should implement the recommendation of the Commission to ''create a single, principal point of oversight and review for homeland security.''.

SEC. 1604. REPORT REGARDING BORDER SECURITY.

(a) IN GENERAL. Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress regarding ongoing initiatives of the Department to improve security along the northern border of the United States.

(b) CONTENTS. The report submitted under sub-section (a) shall

(1) address the vulnerabilities along the northern border of the United States; and

(2) provide recommendations to address such vulnerabilities, including required resources needed to protect the northern border of the United States.

(c) GOVERNMENT ACCOUNTABILITY OFFICE. Not later than 270 days after the date of the submission of the report under subsection (a), the Comptroller General of the United States shall submit a report to Congress that—

(1) reviews and comments on the report under subsection (a); and

(2) provides recommendations regarding any additional actions necessary to protect the northern border of the United States.

SEC. 1605. LAW ENFORCEMENT ASSISTANCE FORCE.

(a) ESTABLISHMENT.—The Secretary shall establish a Law Enforcement Assistance Force to facilitate the contributions of retired law enforcement officers and agents during major disasters.

(b) ELIGIBLE PARTICIPANTS.—An individual may participate in the Law Enforcement Assistance Force if that individual—

(1) has experience working as an officer or agent for a public law enforcement agency and left that agency in good standing;

(2) holds current certifications for firearms, first aid, and such other skills determined necessary by the Secretary;

(3) submits to the Secretary an application, at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, that authorizes the Secretary to review the law enforcement service record of that individual; and

(4) meets such other qualifications as the Secretary may require.

(c) LIABILITY; SUPERVISION.—Each eligible participant shall, upon acceptance of an assignment under this section—

(A) be detailed to a Federal, State, or local government law enforcement agency; and

(B) work under the direct supervision of an officer or agent of that agency.

(d) MOBILIZATION.—

(1) IN GENERAL.—In the event of a major disaster, the Secretary, after consultation with appropriate Federal, State, and local government law enforcement agencies, may request eligible participants to volunteer to assist the efforts of those agencies responding to such emergency and assign each willing participant to a specific law enforcement agency.

(2) ACCEPTANCE.—If the eligible participant accepts an assignment under this subsection, that eligible participant shall agree to remain in such assignment for a period equal to not less than the shorter of—

(A) the period during which the law enforcement agency needs the services of such participant;

(B) 30 days;

(C) such other period of time agreed to between the Secretary and the eligible participant.

(3) REFUSAL.—An eligible participant may refuse an assignment under this subsection without any adverse consequences.

(e) EXPENSES.—

(1) IN GENERAL.—Each eligible participant shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while carrying out an assignment under subsection (d).

(2) SOURCE OF FUNDS.—Expenses incurred under paragraph (1) shall be paid from amounts appropriated to the Federal Emergency Management Agency.

(f) TERMINATION OF ASSISTANCE.—The availability of eligible participants of the Law Enforcement Assistance Force shall continue for a period equal to the shorter of—

(1) the period of the major disaster; or

(2) 1 year.

(g) DEFINITIONS.—In this section—

(1) the term ''eligible participant'' means an individual participating in the Law Enforcement Assistance Force;

(2) the term ''Law Enforcement Assistance Force'' means the Law Enforcement Assistance Force established under subsection (a); 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).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1606. QUADRENNIAL HOMELAND SECURITY REVIEW.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Not later than the end of fiscal year 2008, the Secretary shall establish a national homeland security strategy.

(2) REVIEW.—Four years after the establishment of the national homeland security strategy, and every 4 years thereafter, the Secretary shall conduct a comprehensive examination of the national homeland security strategy.

(3) SCOPE.—In establishing or reviewing the national homeland security strategy under this subsection, the Secretary shall conduct a comprehensive examination of interagency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland security program and policies of the United States with a view toward determining and expressing the homeland security strategy of the United States and establishing a homeland security program for the 20 years following that examination.

(4) REFERENCE.—The establishment or review of the national homeland security strategy under this subsection shall be known as the ''quadrennial homeland security review''.

(5) CONSULTATION.—Each quadrennial homeland security review under this subsection shall be conducted in consultation with the Attorney General of the United States, the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of the Treasury.

(b) CONTENTS OF REVIEW.—Each quadrennial homeland security review shall—

(1) delineate a national homeland security strategy consistent with the most recent National Response Plan prepared under Homeland Security Presidential Directive-5 or any directive meant to replace or augment that directive;

(2) describe the interagency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland security program and policies of the United States associated with the national homeland security strategy required to execute successfully the full range of missions called for in the national homeland security strategy delineated under paragraph (1); and

(3) identify—

(A) the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in that national homeland security strategy at a low-to-moderate level of risk; and

(B) any additional resources required to achieve such a level of risk.

(c) LEVEL OF RISK.—The assessment of the level of risk for purposes of subsection (b)(3) shall be conducted by the Director of National Intelligence.

(d) REPORTING.—

(1) IN GENERAL.—The Secretary shall submit a report regarding each quadrennial homeland security review to Congress and shall make the report publicly available on the Internet. Each such report shall be submitted and made available on the Internet not later than September 30 of the year in which the review is conducted.

(2) CONTENTS OF REPORT.—Each report submitted under paragraph (1) shall include—

(A) the results of the quadrennial homeland security review;

(B) the threats to the assumed or defined national homeland security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats;

(C) the status of cooperation among Federal agencies in the effort to promote national homeland security;

(D) the status of cooperation between the Federal Government and State governments in preparing for emergency response to threats to national homeland security; and

(E) any other matter the Secretary considers appropriate.

(e) RESOURCE PLAN.—

Not later than 30 days after the date of enactment of this Act, the Secretary shall provide to Congress and make publicly available on the Internet a detailed resource plan specifying the estimated budget and number of staff members that will be required for preparation of the initial quadrennial homeland security review.

SEC. 1607. INTEGRATION OF DETECTION EQUIPMENT AND TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall have responsibility for ensuring that chemical, biological, radiological, and nuclear detection equipment and technologies are integrated as appropriate with other border security systems and detection technologies.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress that contains a plan to develop a departmental technology assessment process to determine and certify the technology readiness levels of chemical, biological, radiological, and nuclear detection technologies before the full deployment of such technologies within the United States.

TITLE XVII—911 MODERNIZATION

SEC. 1701. SHORT TITLE.

This title may be cited as the ''911 Modernization Act''.

SEC. 1702. FUNDING FOR PROGRAM.

Section 3011 of Public Law 109–171 (47 U.S.C. 309 note) is amended—

(1) by striking ''The'' and inserting:

''(a) IN GENERAL.—The''; and

(2) by adding at the end the following:

''(b) CREDIT.—The Assistant Secretary may borrow from the Treasury, upon enactment of this provision, such sums as necessary, but not to exceed $43,500,000 to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.''.

SEC. 1703. NTIA COORDINATION OF E–911 IMPLEMENTATION.

Section 158(b)(4) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942(b)(4)) is amended by adding at the end thereof the following: ''Within 180 days after the date of enactment of the 911 Modernization Act, the Assistant Secretary and the Administrator shall jointly issue regulations updating the criteria to provide priority for public safety answering points not capable, as of the date of enactment of that Act, of receiving 911 calls.''.

TITLE XVIII—MODERNIZATION OF THE AMERICAN NATIONAL RED CROSS

SEC. 1801. SHORT TITLE.

This title may be cited as the ''The American National Red Cross Governance Modernization Act of 2007''.

SEC. 1802. FINDINGS; SENSE OF CONGRESS.

(a) FINDINGS.—Congress makes the following findings:

(1) Substantive changes to the Congressional Charter of The American National Red Cross have not been made since 1947.

(2) In February 2006, the board of governors of The American National Red Cross (the ''Board of Governors'') commissioned an independent review and analysis of the Board of Governors' role, composition, size, relationship with management, governance relationship with chartered units of The American National Red Cross, and whistleblower and audit functions.

(3) In an October 2006 report of the Board of Governors, entitled ''American Red Cross Governance for the 21st Century'' (the ''Governance Report''), the Board of Governors recommended changes to the Congressional Charter, bylaws, and other governing documents of The American National Red Cross to modernize and enhance the effectiveness of the Board of Governors and governance structure of The American National Red Cross.

(4) It is in the national interest to create a more efficient governance structure of The American National Red Cross and to enhance the Board of Governors' ability to support the critical mission of The American National Red Cross in the 21st century.

(5) It is in the national interest to clarify the role of the Board of Governors as a governance and strategic oversight board and for The American National Red Cross to amend its bylaws, consistent with the recommendations described in the Governance Report, to clarify the role of the Board of Governors and to outline the areas of its responsibility, including—

(A) reviewing and approving the mission statement for The American National Red Cross;

(B) approving and overseeing the corporation's strategic plan and maintaining strategic oversight of operational matters;

(C) selecting, evaluating, and determining the level of compensation of the corporation's chief executive officer;

(D) evaluating the performance and establishing the compensation of the senior leadership team and providing for management succession;

(E) overseeing the financial reporting and audit process, internal controls, and legal compliance;

(F) holding management accountable for performance;

(G) providing oversight of the financial stability of the corporation;

(H) ensuring the inclusiveness and diversity of the corporation;

(I) providing oversight of the protection of the brand of the corporation; and

(J) assisting with fundraising on behalf of the corporation.

(6)(A) The selection of members of the Board of Governors is a critical component of effective governance for The American National Red Cross, and, as such, it is in the national interest that The American National Red Cross amend its bylaws to provide a method of selection consistent with that described in the Governance Report.

(B) The new method of selection should replace the current process by which—

(i) 30 chartered unit-elected members of the Board of Governors are selected by a non-Board committee which includes 2 members of the Board of Governors and other individuals elected by the chartered units themselves;

(ii) 12 at-large members of the Board of Governors are nominated by a Board committee and elected by the Board of Governors; and

(iii) 8 members of the Board of Governors are appointed by the President of the United States.

(C) The new method of selection described in the Governance Report reflects the single category of members of the Board of Governors that will result from the implementation of this title:

(i) All Board members (except for the chairman of the Board of Governors) would be nominated by a single committee of the Board of Governors taking into account the criteria outlined in the Governance Report to assure the expertise, skills, and experience of a governing board.

(ii) The nominated members would be considered for approval by the full Board of Governors and then submitted to The American National Red Cross annual meeting of delegates for election, in keeping with the standard corporate practice whereby shareholders of a corporation elect members of a board of directors at its annual meeting.

(7) The United States Supreme Court held The American National Red Cross to be an instrumentality of the United States, and it is in the national interest that the Congressional Charter confirm that status and that any changes to the Congressional Charter do not affect the rights and obligations of The American National Red Cross to carry out its purposes.

(8) Given the role of The American National Red Cross in carrying out its services, programs, and activities, and meeting its various obligations, the effectiveness of The American National Red Cross will be promoted by the creation of an organizational ombudsman who—

(A) will be a neutral or impartial dispute resolution practitioner whose major function will be to provide confidential and informal assistance to the many internal and external stakeholders of The American National Red Cross;

(B) will report to the chief executive officer and the audit committee of the Board of Governors; and

(C) will have access to anyone and any documents in The American National Red Cross.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) charitable organizations are an indispensable part of American society, but these organizations can only fulfill their important roles by maintaining the trust of the American public;

(2) trust is fostered by effective governance and transparency, which are the principal goals of the recommendations of the Board of Governors in the Governance Report and this title;

(3) Federal and State action play an important role in ensuring effective governance and transparency by setting standards, rooting out violations, and informing the public; and

(4) while The American National Red Cross is and will remain a Federally chartered instrumentality of the United States, and it has the rights and obligations consistent with that status, The American National Red Cross nevertheless should maintain appropriate communications with State regulators of charitable organizations and should cooperate with them as appropriate in specific matters as they arise from time to time.

SEC. 1803. ORGANIZATION.

Section 300101 of title 36, United States Code, is amended—

(1) in subsection (a), by inserting ''a Federally chartered instrumentality of the United States and'' before ''a body corporate and politic''; and

(2) in subsection (b), by inserting at the end the following new sentence: ''The corporation may conduct its business and affairs, and otherwise hold itself out, as the 'American Red Cross' in any jurisdiction.''.

SEC. 1804. PURPOSES.

Section 300102 of title 36, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

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

''(5) to conduct other activities consistent with the foregoing purposes.''.

SEC. 1805. MEMBERSHIP AND CHAPTERS.

Section 300103 of title 36, United States Code, is amended—

(1) in subsection (a), by inserting '', or as otherwise provided,'' before ''in the bylaws'';

(2) in subsection (b)(1)—

(A) by striking ''board of governors'' and inserting ''corporation''; and

(B) by inserting ''policies and'' before ''regulations related''; and

(3) in subsection (b)(2)—

(A) by inserting ''policies and'' before ''regulations shall require''; and

(B) by striking ''national convention'' and inserting ''annual meeting''.

SEC. 1806. BOARD OF GOVERNORS.

Section 300104 of title 36, United States Code, is amended to read as follows:

''§ 300104. Board of governors

''(a) BOARD OF GOVERNORS.—

''(1) IN GENERAL.—The board of governors is the governing body of the corporation with all powers of governing and directing, and of overseeing the management of the business and affairs of, the corporation.

''(2) NUMBER.—The board of governors shall fix by resolution, from time to time, the number of members constituting the entire board of governors, provided that—

''(A) as of March 31, 2009, and thereafter, there shall be no fewer than 12 and no more than 25 members; and

''(B) as of March 31, 2012, and thereafter, there shall be no fewer than 12 and no more than 20 members constituting the entire board.

Procedures to implement the preceding sentence shall be provided in the bylaws.

''(3) APPOINTMENT.—The governors shall be appointed or elected in the following manner:

''(A) CHAIRMAN.—

''(i) IN GENERAL.—The board of governors, in accordance with procedures provided in the bylaws, shall recommend to the President an individual to serve as chairman of the board of governors. If such recommendation is approved by the President, the President shall appoint such individual to serve as chairman of the board of governors.

''(ii) VACANCIES.—Vacancies in the office of the chairman, including vacancies resulting from the resignation, death, or removal by the President of the chairman, shall be filled in the same manner described in clause (i).

''(iii) DUTIES.—The chairman shall be a member of the board of governors and, when present, shall preside at meetings of the board of governors and shall have such other duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

''(B) OTHER MEMBERS.—

''(i) IN GENERAL.—Members of the board of governors other than the chairman shall be elected at the annual meeting of the corporation in accordance with such procedures as may be provided in the bylaws.

''(ii) VACANCIES.—Vacancies in any such elected board position and in any newly created board position may be filled by a vote of the remaining members of the board of governors in accordance with such procedures as may be provided in the bylaws.

''(b) TERMS OF OFFICE.—

''(1) IN GENERAL.—The term of office of each member of the board of governors shall be 3 years, except that—

''(A) the board of governors may provide under the bylaws that the terms of office of members of the board of governors elected to the board of governors before March 31, 2012, may be less than 3 years in order to implement the provisions of subparagraphs (A) and (B) of subsection (a)(2); and

''(B) any member of the board of governors elected by the board to fill a vacancy in a board position arising before the expiration of its term may, as determined by the board, serve for the remainder of that term or until the next annual meeting of the corporation.

''(2) STAGGERED TERMS.—The terms of office of members of the board of governors (other than the chairman) shall be staggered such that, by March 31, 2012, and thereafter, ⅓ of the entire board (or as near to ⅓ as practicable) shall be elected at each successive annual meeting of the corporation with the term of office of each member of the board of governors elected at an annual meeting expiring at the third annual meeting following the annual meeting at which such member was elected.

''(3) TERM LIMITS.—No person may serve as a member of the board of governors for more than such number of terms of office or years as may be provided in the bylaws.

''(c) COMMITTEES AND OFFICERS.—The board—

''(1) may appoint, from its own members, an executive committee to exercise such powers of the board when the board is not in session as may be provided in the bylaws;

''(2) may appoint such other committees or advisory councils with such powers as may be provided in the bylaws or a resolution of the board of governors;

''(3) shall appoint such officers of the corporation, including a chief executive officer, with such duties, responsibilities, and terms of office as may be provided in the bylaws or a resolution of the board of governors; and

''(4) may remove members of the board of governors (other than the chairman), officers, and employees under such procedures as may be provided in the bylaws or a resolution of the board of governors.

''(d) ADVISORY COUNCIL.—

''(1) ESTABLISHMENT.—There shall be an advisory council to the board of governors.

''(2) MEMBERSHIP; APPOINTMENT BY PRESIDENT.—

''(A) IN GENERAL.—The advisory council shall be composed of no fewer than 8 and no more than 10 members, each of whom shall be appointed by the President from principal officers of the executive departments and senior officers of the Armed Forces whose positions and interests qualify them to contribute to carrying out the programs and purposes of the corporation.

''(B) MEMBERS FROM THE ARMED FORCES.—At least 1, but not more than 3, of the members of the advisory council shall be selected from the Armed Forces.

''(3) DUTIES.—The advisory council shall advise, report directly to, and meet, at least 1 time per year with the board of governors, and shall have such name, functions and be subject to such procedures as may be provided in the bylaws.

''(e) ACTION WITHOUT MEETING.—Any action required or permitted to be taken at any meeting of the board of governors or of any committee thereof may be taken without a meeting if all members of the board or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

''(f) VOTING BY PROXY.—

''(1) IN GENERAL.—Voting by proxy is not allowed at any meeting of the board, at the annual meeting, or at any meeting of a chapter.

''(2) EXCEPTION.—The board may allow the election of governors by proxy during any emergency.

''(g) BYLAWS.—

''(1) IN GENERAL.—The board of governors may—

''(A) at any time adopt bylaws; and

''(B) at any time adopt bylaws to be effective only in an emergency.

''(2) EMERGENCY BYLAWS.—Any bylaws adopted pursuant to paragraph (1)(B) may provide special procedures necessary for managing the corporation during the emergency. All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency.

''(h) DEFINITIONS.—For purposes of this section—

''(1) the term 'entire board' means the total number of members of the board of governors that the corporation would have if there were no vacancies; and

''(2) the term 'emergency' shall have such meaning as may be provided in the bylaws.''.

SEC. 1807. POWERS.

Paragraph (a)(1) of section 300105 of title 36, United States Code, is amended by striking ''bylaws'' and inserting ''policies''.

SEC. 1808. ANNUAL MEETING.

Section 300107 of title 36, United States Code, is amended to read as follows:

''§ 300107. Annual meeting

''(a) IN GENERAL.—The annual meeting of the corporation is the annual meeting of delegates of the chapters.

''(b) TIME OF MEETING.—The annual meeting shall be held as determined by the board of governors.

''(c) PLACE OF MEETING.—The board of governors is authorized to determine that the annual meeting shall not be held at any place, but may instead be held solely by means of remote communication subject to such procedures as are provided in the bylaws.

''(d) VOTING.—

''(1) IN GENERAL.—In matters requiring a vote at the annual meeting, each chapter is entitled to at least 1 vote, and voting on all matters may be conducted by mail, telephone, telegram, cablegram, electronic mail, or any other means of electronic or telephone transmission, provided that the person voting shall state, or submit information from which it can be determined, that the method of voting chosen was authorized by such person.

''(2) ESTABLISHMENT OF NUMBER OF VOTES.—

''(A) IN GENERAL.—The board of governors shall determine on an equitable basis the number of votes that each chapter is entitled to cast, taking into consideration the size of the membership of the chapters, the populations served by the chapters, and such other factors as may be determined by the board.

''(B) PERIODIC REVIEW.—The board of governors shall review the allocation of votes at least every 5 years.''.

SEC. 1809. ENDOWMENT FUND.

Section 300109 of title 36, United States Code is amended—

(1) by striking ''nine'' from the first sentence thereof; and

(2) by striking the second sentence and inserting the following: ''The corporation shall prescribe policies and regulations on terms and tenure of office, accountability, and expenses of the board of trustees.''.

SEC. 1810. ANNUAL REPORT AND AUDIT.

Subsection (a) of section 300110 of title 36, United States Code, is amended to read as follows:

''(a) SUBMISSION OF REPORT.—As soon as practicable after the end of the corporation's fiscal year, which may be changed from time to time by the board of governors, the corporation shall submit a report to the Secretary of Defense on the activities of the corporation during such fiscal year, including a complete, itemized report of all receipts and expenditures.''.

SEC. 1811. COMPTROLLER GENERAL OF THE UNITED STATES AND OFFICE OF THE OMBUDSMAN.

(a) IN GENERAL.—Chapter 3001 of title 36, United States Code, is amended by redesignating section 300111 as section 300113 and by inserting after section 300110 the following new sections:

''§ 300111. Authority of the Comptroller General of the United States

''The Comptroller General of the United States is authorized to review the corporation's involvement in any Federal program or activity the Government carries out under law.

''§ 300112. Office of the Ombudsman

''(a) ESTABLISHMENT.—The corporation shall establish an Office of the Ombudsman with such duties and responsibilities as may be provided in the bylaws or a resolution of the board of governors.

''(b) REPORT.—

''(1) IN GENERAL.—The Office of the Ombudsman shall submit annually to the appropriate Congressional committees a report concerning any trends and systemic matters that the Office of the Ombudsman has identified as confronting the corporation.

''(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of paragraph (1), the appropriate Congressional committees are the following committees of Congress:

''(A) SENATE COMMITTEES.—The appropriate Congressional committees of the Senate are—

''(i) the Committee on Finance;

''(ii) the Committee on Foreign Relations;

''(iii) the Committee on Health, Education, Labor, and Pensions;

''(iv) the Committee on Homeland Security and Governmental Affairs; and

''(v) the Committee on the Judiciary.

''(B) HOUSE COMMITTEES.—The appropriate Congressional committees of the House of Representatives are—

''(i) the Committee on Energy and Commerce;

''(ii) the Committee on Foreign Affairs;

''(iii) the Committee on Homeland Security;

''(iv) the Committee on the Judiciary; and

''(v) the Committee on Ways and Means.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 3001 of title 36, United States Code, is amended by striking the item relating to section 300111 and inserting the following:

''300111. Authority of the Comptroller General of the United States.
''300112. Office of the Ombudsman.
''300113. Reservation of right to amend or repeal.''.

TITLE XIX—ADVANCEMENT OF DEMOCRATIC VALUES

SEC. 1901. SHORT TITLE.

This title may be cited as the ''Advance Democratic Values, Address Non-democratic Countries, and Enhance Democracy Act of 2007'' or the ''ADVANCE Democracy Act of 2007''.

SEC. 1902. FINDINGS.

Congress finds that in order to support the expansion of freedom and democracy in the world, the foreign policy of the United States should be organized in support of transformational diplomacy that seeks to work through partnerships to build and sustain democratic, well-governed states that will respect human rights and respond to the needs of their people and conduct themselves responsibly in the international system.

SEC. 1903. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to promote freedom and democracy in foreign countries as a fundamental component of the foreign policy of the United States;

(2) to affirm internationally recognized human rights standards and norms and to condemn offenses against those rights;

(3) to use instruments of United States influence to support, promote, and strengthen democratic principles, practices, and values, including the right to free, fair, and open elections, secret balloting, and universal suffrage;

(4) to protect and promote fundamental freedoms and rights, including the freedom of association, of expression, of the press, and of religion, and the right to own private property;

(5) to protect and promote respect for and adherence to the rule of law;

(6) to provide appropriate support to nongovernmental organizations working to promote freedom and democracy;

(7) to provide political, economic, and other support to countries that are willingly undertaking a transition to democracy;

(8) to commit to the long-term challenge of promoting universal democracy; and

(9) to strengthen alliances and relationships with other democratic countries in order to better promote and defend shared values and ideals.

SEC. 1904. DEFINITIONS.

In this title:

(1) ANNUAL REPORT ON ADVANCING FREEDOM AND DEMOCRACY.—The term ''Annual Report on Advancing Freedom and Democracy'' refers to the annual report submitted to Congress by the Department of State pursuant to section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note), in which the Department reports on actions taken by the United States Government to encourage respect for human rights and democracy.

(2) ASSISTANT SECRETARY.—The term ''Assistant Secretary'' means the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(3) COMMUNITY OF DEMOCRACIES AND COMMUNITY.—The terms ''Community of Democracies'' and ''Community'' mean the association of democratic countries committed to the global promotion of democratic principles, practices, and values, which held its First Ministerial Conference in Warsaw, Poland, in June 2000.

(4) DEPARTMENT.—The term ''Department'' means the Department of State.

(5) UNDER SECRETARY.—The term ''Under Secretary'' means the Under Secretary of State for Democracy and Global Affairs.

Subtitle A—Liaison Officers and Fellowship Program to Enhance the Promotion of Democracy

SEC. 1911. DEMOCRACY LIAISON OFFICERS.

(a) IN GENERAL.—The Secretary of State shall establish and staff Democracy Liaison Officer positions, under the supervision of the Assistant Secretary, who may be assigned to the following posts:

(1) United States missions to, or liaison with, regional and multilateral organizations, including the United States missions to the European Union, African Union, Organization of American States and any other appropriate regional organization, Organization for Security and Cooperation in Europe, the United Nations and its relevant specialized agencies, and the North Atlantic Treaty Organization.

(2) Regional public diplomacy centers of the Department.

(3) United States combatant commands.

(4) Other posts as designated by the Secretary of State.

(b) RESPONSIBILITIES.—Each Democracy Liaison Officer should—

(1) provide expertise on effective approaches to promote and build democracy;

(2) assist in formulating and implementing strategies for transitions to democracy; and

(3) carry out other responsibilities as the Secretary of State and the Assistant Secretary may assign.

(c) NEW POSITIONS.—The Democracy Liaison Officer positions established under subsection (a) should be new positions that are in addition to existing officer positions with responsibility for other human rights and democracy related issues and programs.

(d) RELATIONSHIP TO OTHER AUTHORITIES.—Nothing in this section may be construed as removing any authority or responsibility of a chief of mission or other employee of a diplomatic mission of the United States provided under any other provision of law, including any authority or responsibility for the development or implementation of strategies to promote democracy.

SEC. 1912. DEMOCRACY FELLOWSHIP PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—The Secretary of State shall establish a Democracy Fellowship Program to enable Department officers to gain an additional perspective on democracy promotion abroad by working on democracy issues in congressional committees with oversight over the subject matter of this title, including the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and in nongovernmental organizations involved in democracy promotion.

(b) SELECTION AND PLACEMENT.—The Assistant Secretary shall play a central role in the selection of Democracy Fellows and facilitate their placement in appropriate congressional offices and nongovernmental organizations.

(c) EXCEPTION.—A Democracy Fellow may not be assigned to any congressional office until the Secretary of Defense certifies to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives that the request of the Commander of the United States Central Command for the Department of State for personnel and foreign service officers has been fulfilled.

SEC. 1913. TRANSPARENCY OF UNITED STATES BROADCASTING TO ASSIST IN OVERSIGHT AND ENSURE PROMOTION OF HUMAN RIGHTS AND DEMOCRACY IN INTERNATIONAL BROADCASTS.

(a) TRANSCRIPTS.—The Broadcasting Board of Governors shall transcribe into English all original broadcasting content.

(b) PUBLIC TRANSPARENCY.—The Broadcasting Board of Governors shall post all English transcripts from its broadcasting content on a publicly available website within 30 days of the original broadcast.

(c) BROADCASTING CONTENT DEFINED.—In this section, the term ''broadcasting content'' includes programming produced or broadcast by United State international broadcasters, including—

(1) Voice of America;

(2) Alhurra;

(3) Radio Sawa;

(4) Radio Farda;

(5) Radio Free Europe/Radio Liberty;

(6) Radio Free Asia; and

(7) The Office of Cuba Broadcasting.

Subtitle B—Annual Report on Advancing Freedom and Democracy

SEC. 1921. ANNUAL REPORT.

(a) REPORT TITLE.—Section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note) is amended in the first sentence by inserting ''entitled the Advancing Freedom and Democracy Report'' before the period at the end.

(b) SCHEDULE FOR SUBMISSION.—If a report entitled the Advancing Freedom and Democracy Report pursuant to section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003, as amended by subsection (a), is submitted under such section, such report shall be submitted not later than 90 days after the date of submission of the report required by section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)).

(c) CONFORMING AMENDMENT.—Section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 2151n note) is amended by striking ''30 days'' and inserting ''90 days''.

SEC. 1922. SENSE OF CONGRESS ON TRANSLATION OF HUMAN RIGHTS REPORTS.

It is the sense of Congress that the Secretary of State should continue to ensure and expand the timely translation of Human Rights and International Religious Freedom reports and the Annual Report on Advancing Freedom and Democracy prepared by personnel of the Department of State into the principal languages of as many countries as possible. Translations are welcomed because information on United States support for universal enjoyment of freedoms and rights serves to encourage individuals around the globe seeking to advance the cause of freedom in their countries.

Subtitle C—Advisory Committee on Democracy Promotion and the Internet Website of the Department of State

SEC. 1931. ADVISORY COMMITTEE ON DEMOCRACY PROMOTION.

Congress commends the Secretary of State for creating an Advisory Committee on Democracy Promotion, and it is the sense of Congress that the Committee should play a significant role in the Department's transformational diplomacy by advising the Secretary of State regarding United States efforts to promote democracy and democratic transition in connection with the formulation and implementation of United States foreign policy and foreign assistance.

SEC. 1932. SENSE OF CONGRESS ON THE INTERNET WEBSITE OF THE DEPARTMENT OF STATE.

It is the sense of Congress that—

(1) the Secretary of State should continue and further expand the Secretary's existing efforts to inform the public in foreign countries of the efforts of the United States to promote democracy and defend human rights through the Internet website of the Department of State;

(2) the Secretary of State should continue to enhance the democracy promotion materials and resources on that Internet website, as such enhancement can benefit and encourage those around the world who seek freedom; and

(3) such enhancement should include where possible and practical, translated reports on democracy and human rights prepared by personnel of the Department, narratives and histories highlighting successful nonviolent democratic movements, and other relevant material.

Subtitle D—Training in Democracy and Human Rights; Promotions

SEC. 1941. SENSE OF CONGRESS ON TRAINING IN DEMOCRACY AND HUMAN RIGHTS.

It is the sense of Congress that—

(1) the Secretary of State should continue to enhance and expand the training provided to foreign service officers and civil service employees on how to strengthen and promote democracy and human rights; and

(2) the Secretary of State should continue the effective and successful use of case studies and practical workshops addressing potential challenges, and work with non-state actors, including nongovernmental organizations that support democratic principles, practices, and values.

SEC. 1942. SENSE OF CONGRESS ON ADVANCE DEMOCRACY AWARD.

It is the sense of Congress that—

(1) the Secretary of State should further strengthen the capacity of the Department to carry out result-based democracy promotion efforts through the establishment of awards and other employee incentives, including the establishment of an annual award known as Outstanding Achievements in Advancing Democracy, or the ADVANCE Democracy Award, that would be awarded to officers or employees of the Department; and

(2) the Secretary of State should establish the procedures for selecting recipients of such award, including any financial terms, associated with such award.

SEC. 1943. PROMOTIONS.

The precepts for selection boards responsible for recommending promotions of foreign service officers, including members of the senior foreign service, should include consideration of a candidate's experience or service in promotion of human rights and democracy.

SEC. 1944. PROGRAMS BY UNITED STATES MISSIONS IN FOREIGN COUNTRIES AND ACTIVITIES OF CHIEFS OF MISSION.

It is the sense of Congress that each chief of mission should provide input on the actions described in the Advancing Freedom and Democracy Report submitted under section 665(c) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–228; 22 U.S.C. 2151n note), as amended by section 1621, and should intensify democracy and human rights promotion activities.

Subtitle E—Alliances With Democratic Countries

SEC. 1951. ALLIANCES WITH DEMOCRATIC COUNTRIES.

(a) ESTABLISHMENT OF AN OFFICE FOR THE COMMUNITY OF DEMOCRACIES.—The Secretary of State should, and is authorized to, establish an Office for the Community of Democracies with the mission to further develop and strengthen the institutional structure of the Community of Democracies, develop interministerial projects, enhance the United Nations Democracy Caucus, manage policy development of the United Nations Democracy Fund, and enhance coordination with other regional and multilateral bodies with jurisdiction over democracy issues.

(b) SENSE OF CONGRESS ON INTERNATIONAL CENTER FOR DEMOCRATIC TRANSITION.—It is the sense of Congress that the International Center for Democratic Transition, an initiative of the Government of Hungary, serves to promote practical projects and the sharing of best practices in the area of democracy promotion and should be supported by, in particular, other European countries with experiences in democratic transitions, the United States, and private individuals.

Subtitle F—Funding for Promotion of Democracy

SEC. 1961. SENSE OF CONGRESS ON THE UNITED NATIONS DEMOCRACY FUND.

It is the sense of Congress that the United States should work with other countries to enhance the goals and work of the United Nations Democracy Fund, an essential tool to promote democracy, and in particular support civil society in their efforts to help consolidate democracy and bring about transformational change.

SEC. 1962. THE HUMAN RIGHTS AND DEMOCRACY FUND.

The purpose of the Human Rights and Democracy Fund should be to support innovative programming, media, and materials designed to uphold democratic principles, support and strengthen democratic institutions, promote human rights and the rule of law, and build civil societies in countries around the world.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–398, as amended by Public Law 108–7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106–398, and upon the recommendation of the Republican leader, in consultation with the chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, appoints the following individual to the United States-China Economic Security Review Commission: Mr. Mark Esper of Virginia, for a term expiring December 31, 2008.

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senator as Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the spring session, to be held in Madeira, Portugal, May 2007: the Honorable BEN CARDIN of Maryland.

RECOGNIZING THE IMPORTANCE OF THE ALLIANCE TO SAVE ENERGY

Ms. STABENOW. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 113 submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 113) commending the achievements and recognizing the importance of the Alliance to Save Energy on the 30th anniversary of the incorporation of the Alliance.

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

Ms. STABENOW. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 113) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 113

Whereas the Alliance to Save Energy marks the 30th anniversary of the incorporation of the Alliance with a year-long celebration, beginning on March 18, 2007, the day on which the Alliance was incorporated as a nonprofit organization in accordance with section 501(c)(3) of the Internal Revenue Code of 1986;

Whereas, in 1977, the Alliance to Save Energy was founded by Senators Charles H. Percy and Hubert H. Humphrey;

Whereas the Alliance to Save Energy is the only national nonprofit, bipartisan public-policy organization working in partnership with prominent business, government, educational, environmental, and consumer leaders to promote the efficient and clean use of energy worldwide to benefit the environment, economy, and security of the United States;

Whereas the Alliance to Save Energy operates programs and collaborative projects throughout the United States, and has been working in the international community for more than a decade in over 30 developing and transitional countries;

Whereas the Alliance to Save Energy has shown that energy efficiency and conservation measures taken by the United States during the past 30 years are now displacing the national need for more than 40 quads of energy each year;

Whereas the Alliance to Save Energy is a nationally recognized authority on energy efficiency, and regularly provides testimony and resources to Federal and State governments, as well as members of the business and media communities;

Whereas the Alliance to Save Energy contributes to a variety of education and outreach initiatives, including the award-winning Green Schools and Green Campus programs, award-winning public service announcements, and a variety of targeted energy-efficiency campaigns;

Whereas the Alliance to Save Energy serves as the North American energy efficiency secretariat for the Renewable Energy and Energy Efficiency Partnership (commonly known as ''REEEP'');

Whereas the Alliance to Save Energy collaborates with other prominent organizations to form partnerships and create groups that advance the cause of energy efficiency, including—

(1) the Building Codes Assistance Project (commonly known as ''BCAP'');

(2) the Southeast Energy Efficiency Alliance (commonly known as ''SEEA'');

(3) the Municipal Network for Energy Efficiency (commonly known as ''MUNEE'');

(4) the Efficient Windows Collaborative; and

(5) the Appliance Standards Awareness Project (commonly known as ''ASAP''); and

Whereas March 18, 2007, marks the 30th anniversary of the incorporation of the Alliance to Save Energy: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Alliance to Save Energy on the 30th anniversary of the incorporation of the Alliance; and

(2) recognizes the important contributions that the Alliance to Save Energy has made to further the cause of energy efficiency.

ORDERS FOR WEDNESDAY, MARCH 21, 2007

Ms. STABENOW. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:15 a.m., Wednesday, March 21; that on Wednesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of S. Con. Res. 21, as provided for under a previous order.

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

ADJOURNMENT UNTIL 9:15 A.M. TOMORROW

Ms. STABENOW. Mr. President, if there is no further business to come before the Senate today, and if the Republican leader has nothing further, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8:06 p.m., adjourned until Wednesday, March 21, 2007, at 9:15 a.m.