United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, MARCH 3, 2005 No. 23

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. The Senate will be led in prayer this morning by our guest chaplain, Rev. Kenneth Leal Harrington of Hope United Church of Christ in Alexandria, VA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Gracious and loving God of all people, we give You thanks for the gift of this day, for all the opportunity it holds to know and embrace Your love. You have given us a world filled with diversity so that we might never forget there are varied ways of knowing You. We pray along with the evangelist John, that we might love one another because You have first loved us.

In this season of repentance You offer us freedom and liberation from our mistakes and You set us on a path of new life. For this gift we give You thanks. Teach us to seek You in all times of our life and to always put You first. Help us never forget that You are the God of second chances.

We pray today for our Senators and the awesome task You have given them in this service to our great country.

You have called people throughout the history of our Nation to come to this room and make the hard decisions that will ensure peace and prosperity for all. For those You have called to be here in this moment in time, we ask that You remind them of the need for humility, compassion, and truthfulness so that they might accomplish the task that is before them. Give them the gift of Your wisdom and integrity that will guide them in their discussions, debates, and dialogues. Help them to recall that in all circumstances it is Your Holy Spirit that guides them.

We offer this prayer in Your Name that unites more than it divides. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RESERVATION OF LEADER TIME

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

The Senator from Hawaii is recognized.

THANKING THE GUEST CHAPLAIN

Mr. AKAKA. Mr. President, I thank our visiting chaplain, the Rev. Kenneth L. Harrington, for giving the opening prayer this morning, and Chaplain Black who joined me to make this possible.

Rev. Ken Harrington is the popular and beloved, respected and well-credentialed pastor of Hope United Church of Christ in Alexandria, my church away from home. Ken is a graduate of the State University of New York, Wesley Theological Seminary in Washington, DC, and the Seminary of Drew University in New Jersey.

Hope Church has been my church away from home for three decades. It was my good fortune to be invited to the church many years ago by my late and cherished friend, Mahina Bailey, and his dear wife, Linda. Mahina was a Hawaiian born in Hawaii, who spent his adult life here.

Over the years, I have gone to many services at Hope and have always been uplifted by the sermons, and since 2000, by the inspiring sermons delivered by Reverend Harrington. Hope Church is a family-friendly church, dedicated to teaching the values of tolerance and inclusivity.

You can actually see this reflected on the diverse faces of its congregation, the result no doubt of the sincerity of its message of inclusivity. The diversity of its congregation is so much like mine at home. Together with inspirational sermons come seeds for thought to be thought through and digested, and practiced in daily life. Foremost among these thoughts, in my mind, is how we can make this a better world for all of us.

I think this is particularly true for Members of Congress in whom a great trust has been placed by our constituents.

As we go through on a daily basis to achieve the greatest good for the greatest number, and have succeeded for the most part but been frustrated at times on issues so dear and right in our hearts, it is good to open our daily session with a prayer and have the spiritual support and guidance of a divine being, to each from his or her own faith.

To end on a lighter note with a ray of optimism for the passage of bills that are near and dear to our hearts, let me say that with all the seriousness that the mission of a church involves, intertwined in its spiritual voyage are social programs. One of Hope's most popular social events is its annual luau, complete with Hawaiian food and entertainment.

An oversold event every year where congregants and friends thank the Lord for his bounty.

Reverend Harrington, thank you for being here this morning and thank you for your stewardship of Hope United Church of Christ.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF BUSINESS

Mr. REID. Would the distinguished majority leader yield for a question?

Mr. FRIST. I yield.

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

Mr. REID. Through the Chair, to my distinguished friend, at 9:45 or thereabouts, we are supposed to talk on the mad cow resolution before the Senate. We have no morning business, as I understand it. I am not going to be here, but I would have a standing objection to any morning business. We have had very few amendments completed on the bankruptcy matter. Maybe the time on morning business could be yielded off the resolution in opposition to that.

It is my understanding the Senator from Iowa is here to speak in morning business.

Mr. GRASSLEY. Five minutes on the beef resolution because I have to go to a committee meeting.

Mr. REID. Fine. I want to make sure we do not get into extended time on morning business because we do not have time.

Mr. FRIST. Mr. President, I understand the Senator from Iowa will speak on the resolution. For scheduling purposes, he will make that statement even if it is before 9:45. Otherwise, as we have discussed, we will proceed after my leader statement to Senator GRASSLEY and then on to the resolution.

SCHEDULE

Mr. FRIST. Mr. President, this morning following the leader time we will proceed to consideration of Senate Joint Resolution 4, which is a disapproval resolution relating to a Department of Agriculture rule regarding Canadian cattle. The agreement reached last night provides for up to 3 hours of debate on the resolution prior to a vote. We hope to be able to yield back some of that debate time and vote earlier so we can resume consideration of the bankruptcy bill for further progress.

Last night's order also allows for two more stacked votes on bankruptcy-related amendments; therefore, we will have three votes today, sometime around noon, depending on the amount of time consumed for the disapproval resolution. In other words, we hope as much of that can be yielded back as possible after debate on the resolution.

Once those votes are completed, I expect the Senate will stay on the bankruptcy bill through the day and possibly into the evening. We will continue to have votes this afternoon and into the evening as necessary to move toward passage of this bill. We have made great progress on the bill thus far. We had five amendments yesterday. We look forward to many amendments today so we can bring this very soon to a resolution. By the end of today, I hope we will have some indication as to when we can complete the bankruptcy legislation.

Members should plan their day today around what will be a very busy session today in that although we will be in session in all likelihood tomorrow, we will not be having rollcall votes tomorrow. We have a lot of work to do.

SOCIAL SECURITY

Mr. FRIST. Mr. President, I have a brief statement on an issue that is receiving a lot of attention, a lot of work, and a lot of engagement, both in the Senate and the House of Representatives, by the President of the United States and, indeed, all across America. It is on Social Security.

When the 109th Congress convened, I stated that our mission in this Congress over the next 2 years would be to govern with meaningful solutions. Working together, both sides of the aisle, we made a fast start, very effective start, confirming the President's Cabinet and enacting, 2 weeks ago, class action legislation. We are making good progress on the bankruptcy legislation, as I just mentioned, and very soon we will be turning our attention to writing the Government's spending blueprint for the coming year; that is, governing with meaningful solutions.

Congress, at the same time that activity is going on in the Chamber, is tackling many problems and will be tackling these problems in the weeks and months ahead, including Social Security, which we are engaged on in this body every day, whether it is working in our own caucuses or conference or in committees.

Social Security, a critically important, great program which does serve as the cornerstone of support for senior citizens, now faces challenges that threaten its long-term stability and well-being. The facts are there. The facts are crystal clear. They are grounded in demographics that were defined two generations ago. Those demographics cannot be changed.

What the facts lead to is that in 3 years, the baby boomers arrive on the Social Security rolls. That will begin an almost 30-year period where we will have a doubling of the number of seniors compared to what it is today—up to 77 million Americans who will begin to collect those Social Security benefits.

Second, we all know we have fewer and fewer workers paying into the system, also driven by demographics. Forty years ago we had 16 people paying in for every retiree. Today we have three people paying in for every retiree. In 20 or 30 years, we will only have two paying into the system. Those facts cannot be changed.

With this President, this Congress, the 109th Congress, is facing this challenge. The challenge is to fix Social Security for seniors and for near-retirees and for that next generation. We need to do it, and we will do it this year—this year—and not next year. We are working toward that goal.

In just the past 2 months, the majority has worked aggressively and thoroughly to fully understand the nature of the problem. We have worked hard to begin to engage the American people in a dialog about the program. In town meetings all across the country, we have put some of the best minds at work to create solutions. That activity is underway.

We talked about this repeatedly in our own conferences. We have interacted with administration officials. We have interacted with leading experts on the Social Security system. Our Members are hard at work to fix the underlying problems. That is the heart of the challenge in this 70-year-old program we will address this year.

So far, I report to the Senate and my colleagues that together with the President we agree that retirees and near-retirees who entered the system before the scope of this problem became so large will not see benefit changes. The retirees or near-retirees will see no benefit changes.

Second, together with the President, we agree that we must harness the power of the market and give younger Americans the choice— it is voluntary—to give them the choice of personal retirement accounts whose rate of growth—therefore, we know, ultimately, the rate of benefits—will grow faster than traditional Social Security.

Third, together, with the President, we agree that all ideas should be on the table. It is too early for people to be drawing rigid lines in the sand. Thus, we encourage people to continue the discussion, the debate, the understanding of the issue, and the nature of the problem.

Fourth, together, with the President, we agree that we should act this year and not put it off to the future.

For those who insist there is no problem, I simply say, look at the facts. As people increasingly look at the facts—and we are seeing the response around the country—people see the problem is real, that it is significant, and that it is growing.

For those who say we do not need any action, well, if you have a problem that is growing, it is much easier to act now, to take some medicine to cure the problem, than to have some radical surgery in the future.

We need to test the ideas with regard to the scope of the problem and the ideas for solutions in that crucible of public debate. We need to put them to a vote. We must let the people ultimately judge.

I say all this so people will know that our majority is hard at work, every day, on this vital issue. In consultation with the administration and the House of Representatives, we will continue to bring before the Senate meaningful solutions that will make a difference in the lives of our seniors. The assurances of Social Security should be guaranteed. To be able to guarantee those assurances, we must diagnose the problem, and then we must act. We must govern with meaningful solutions, and that is exactly what this Congress will do.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. Does the Senator from Iowa seek recognition?

Mr. GRASSLEY. Mr. President, with the permission of the Senator from Georgia, I yield myself 5 minutes.

Mr. CHAMBLISS. No objection.

The PRESIDENT pro tempore. The Senator is recognized for 5 minutes.

JOINT RESOLUTION ON DISAPPROVAL

Mr. GRASSLEY. Mr. President, I rise to speak on the resolution that comes before us disapproving the actions of the Department of Agriculture on the importation of Canadian beef into the United States. But in doing so, I do not denigrate the efforts that are being made to have a debate on a legitimate public policy issue, but to put it in context.

First, from the standpoint of my chairmanship of the Senate Finance Committee with jurisdiction over international trade, I think this is something for which we have developed policies over the last couple decades, where we have worked very hard to see that several rights can be preserved.

One, probably basic to this debate, is obviously the sovereign right of any country to make sure that it does not in any way allow products into the country that would in any way hurt the health and safety of the consumers of that particular country. I think every trade agreement takes that into consideration.

Within the last 10 or 15 years, we have worked very hard and have included in our trade agreements rules concerning sanitary and phytosanitary measures. These rules require that science, as opposed to political science, be the basis upon which we base decisions as to whether a product is safe to enter the U.S. market.

So I hope during this debate that we keep in mind that we do have commitments to rely on science when making determinations as to whether products are safe. Hopefully, each country respects that. Particularly the United States, being a leader in the rule of law in international trade, ought to do that. But we expect every country that comes under the WTO to do exactly the same, and the same holds with other trade agreements. We also, of course, reserve the right to make sure our food is safe.

For the debate we are in now, I hope we remember that if it had not been for mad cow disease in Canada, there would never be any such discussion before the Senate because over a long period of time we had imports of beef from Canada, and we have been exporting our red meat and other food products to Canada. So if we had not had mad cow disease in Canada, then we would not be debating this issue.

So when it gets to the issue of whether mad cow disease is an issue with Canadian beef coming into the country, then let's remember that decision ought to be made strictly on the sound science of whether that meat is safe. If we are going to make a political decision in place of a scientific decision as to whether Canadian beef should come into the country, then, of course, our purity in international trade is going to be questioned by other countries.

The second point is that, during this very same period of time when we have been having this problem with Canada as to whether their meat is safe to come into the country, we have also been trying to negotiate with the Japanese because we had one mad cow case and the Japanese and other countries are not taking our beef. We have been working over the last several months to get Japan to take our beef based upon the principle that we are following the sanitary and phytosanitary rules, on a scientific basis, for making sure our meat is safe for the Japanese consumers. We do not want to get ourselves into a position where we are going to ignore the science of the safety of meat in Canada versus—

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator's time has expired.

Mr. GRASSLEY. Madam President, I will finish one sentence, if I could.

Mr. CHAMBLISS. I am happy to yield the Senator an additional 30 seconds.

Mr. GRASSLEY. We do not want to get ourselves in a position of having the Japanese say to us our meat is not safe even though it is shown to be safe based on sound science. Since we want our beef to go to Japan because it is safe, then, obviously, if meat is safe coming in from Canada, it has to be received as well.

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF THE RULE SUBMITTED BY THE DEPARTMENT OF AGRICULTURE RELATING TO RISK ZONES FOR INTRODUCTION OF BOVINE SPONGIFORM ENCEPHALOPATHY

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S.J. Res. 4, which the clerk will report by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 4) providing for congressional disapproval of the rule submitted by the Department of Agriculture under chapter 8 of title 5, United States Code, relating to risk zones for introduction of bovine spongiform encephalopathy.

The PRESIDING OFFICER. Under the previous order, there will be up to 3 hours for debate equally divided.

The Senator from Georgia.

Mr. CHAMBLISS. Madam President, I rise today in opposition to the resolution and in support of the rule as proposed by the U.S. Department of Agriculture. I do this, first of all, with great appreciation of the efforts of my colleagues to bring this resolution forward. But I must encourage my colleagues to vote against this resolution.

This is not the time to pull the plug on a rulemaking process that is rooted in the best available science and, instead, to be guided by the concerns that seem to be less about science than about trade advantages.

The illustrious chairman of the Finance Committee went into great detail about the trade issues and the fact that the rule change is based on sound science. That is a lot of what I want to talk about initially this morning.

First, I think we need to understand exactly what the resolution seeks to disapprove of today. On January 4, 2005, the U.S. Department of Agriculture published its final rule regarding further reopening of the U.S. border for beef imports from Canada. This rule designates Canada as the first ''minimal-risk region'' for bovine spongiform encephalopathy, otherwise known as BSE. I will not try that long word again. We are going to call it BSE. It is due to become effective on this Monday, March 7, 2005. The original rule would have allowed bone-in beef from cattle of any age and live cattle under 30 months of age.

The U.S. Department of Agriculture conducted two rounds of public comment and received over 3,300 comments on the proposed rule. Over a period of months, USDA considered these comments, and responses were published with the final rule. The final rule establishes criteria for geographic regions to be recognized as presenting minimal risk of introducing BSE into the United States.

USDA utilized the OIE, which is the International Office of Epizootics, the international body that deals with animal diseases worldwide. Again, this will be referred to as the OIE. The USDA utilized the OIE guidelines, which recommend the use of risk assessment to manage human as well as animal health risks of BSE, as a basis in developing final regulations defining Canada as a minimal-risk country.

The final rule places Canada in the minimal-risk category and defines the requirements that must be met for the import of certain ruminants and ruminant products from Canada. Under the USDA definition, a minimal-risk region can include a region in which animals have been diagnosed with BSE but where sufficient risk mitigation measures are in place to reduce the likelihood of the disease's introduction into the United States.

On January 2, 2005, Canada confirmed its second domestic case of BSE, and a third case 9 days later. The USDA sent a technical team to Canada on January 24, 2005, to investigate Canada's adherence to the ruminant, ruminant feed ban. The results of that investigation were favorable, finding that the Canadian inspection program and overall compliance to the feed ban were good. The technical team's epidemiological report investigating possible links of the positive animals is still pending.

In response to this, on February 9, 2005, Secretary Johanns announced USDA would delay the implementation of that part of the rule allowing for older bone-in beef—that is beef in excess of 30 months old—because the technical team's investigation in Canada would not be complete by March 7.

The current rule now allows imports from Canada of bone-in beef and live cattle under 30 months of age intended for immediate slaughter.

On January 24 of this year, USDA sent a team to Canada to assess the adequacy of Canada's current ruminant feed ban, as previously stated. On February 25, USDA published their report, and in this report USDA stated:

[T]he inspection team found that Canada has a robust inspection program, that overall compliance with the feed ban is good, and that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population.

Furthermore, the report notes the obvious fact that:

[T]he Canadian feed ban is not substantially different than the U.S. feed ban.

Those who want to seriously question the adequacy of the Canadian BSE controls should keep in mind that Canada almost perfectly mirrors the controls in place in the United States. The controls for BSE in the United States are sufficient and, according to all the data available, the similar controls in Canada are also sufficient.

We should keep in mind also that the question regarding Canadian beef and cattle imports is not a food safety issue. I repeat, it is not a food safety issue. It is an animal health issue. That is what we are talking about today.

BSE is not spread by contact between people or animals. Safeguards are in place in both the United States and Canada to ensure that no potentially infectious material would ever make it into the human food supply, period.

Internationally accepted science maintains that the removal of certain specified risk materials that contain the prions that cause BSE eliminates the disease's infectivity. Canada has adopted SRM removal requirements that are virtually identical to current U.S. regulations.

In addition, while the Canadians do not view tonsils in cattle under 30 months as SRMs, the U.S. requires that all meat exported from Canada to the United States have the tonsils removed pursuant to U.S. regulations.

Finally, the Food Safety Inspection Service, FSIS, has audited a number of Canadian plants and found them to be in compliance with U.S. BSE requirements, including SRM and small intestine and tonsil removal.

Since all potentially infectious materials are removed from every animal old enough to theoretically exhibit the disease, both in the United States and Canada, it should be clear that this is an animal health debate only. We are all committed to maintaining the highest standards of human health protection. We have those already today, and we will still have those standards after this rule takes effect.

Regarding the issue of animal health, the OIE has affirmed that Canadian BSE control efforts have resulted in a very low risk of BSE in their cattle herd. The best available science in both Canada and the United States tells us that the safeguards in place are protecting animal health also. USDA–APHIS has conducted multiple investigations into Canada's ruminant-to-ruminant feed ban compliance since the May 2003 border closure, and all scientific, risk-based evidence has pointed to resuming beef and cattle trade with Canada.

They have concluded that the Canadian ruminant feed ban, which took effect simultaneously with our own feed ban, is effective in preventing the introduction and amplification of BSE in both Canadian and U.S. cattle herds. We can choose to go down the road of trade protection or we can continue to trust the best science available. I encourage us to stick with sound consensus science.

On January 17 of this year, the National Cattlemen's Beef Association sent a delegation of producers and scientists to Canada to evaluate the effectiveness of that country's BSE control efforts. The National Cattlemen's Beef Association is the largest beef producer organization in the United States, representing both beef producers as well as processors. The outcome of the NCBA review published on February 2 affirms their confidence that the Canadian BSE safeguards are adequate.

Regarding the Canadian feed ban, the NCBA Delegation concluded:

The Canadian feed industry appears to be in compliance with its feed ban, based on visual inspections and multiple annual audit reports.

They also concluded that Canada's BSE surveillance and proposed import requirements related to animal health were sufficient to protect the U.S. cattle herd, if the border with Canada is opened even further.

While we would never want to formulate U.S. policy merely based on the practices of another country, it is instructive to note that domestically produced beef consumption in Canada is up, not down. It is clear that Canadians are not shipping beef to us that they don't choose to eat themselves.

In 2003, the last year for which numbers are available, Canadian beef consumption increased 5 percent to 31 pounds per person per year. Indications are that consumption in 2004 will be just as strong if not stronger. We can be confident that the beef exports from Canada presently underway and the ones proposed by USDA's rule don't constitute dumping unwanted product in our market but are composed of the same beef that Canadian consumers recognize as wholesome and are buying in increasing quantities.

In the past, a large percentage of Canadian cattle came to the U.S. processing plants for further value-added processing and to provide sufficient livestock numbers to keep in business many U.S. plants near the northern border. Since the closure of the U.S. border to Canadian beef, the Canadian processing capacity increased by 22 percent in 2004 alone.

This means that those processing jobs and all the added carcass value are now increasingly in Canada and no longer in the United States. This may have especially significant impact on U.S. processors in the Pacific Northwest who have relied on Canadian cattle to keep their plants open. In recent months, several U.S. companies have announced that they are suspending operations or reducing hours of operation due to the tightening cattle supplies and lack of an export market. If we keep our border closed to Canadian-slaughtered cattle and bone-in carcasses, then their meat will still come to the United States as boneless cuts because that is already happening with or without this rule. But the added value and jobs that could be in the United States will increasingly be kept in Canada.

Agricultural trade is vital to maintaining a robust agricultural economy in the United States. The future of agriculture in this country, the future of ranching depends upon our ability to export the finest quality of agricultural product of anybody in the world. As the world's largest trading partner, we must base our trade decisions on sound science. We have the most to lose when nontariff trade barriers are enacted.

USDA has made resumption of international trade in U.S. beef a high priority. The United States and Japan have held consultations and agreed that the trade in beef between the two countries should resume given certain conditions and modalities. We have to remember that our beef exporting trade with Japan has been discontinued due to the fact that we found one cow in the United States with BSE, although it turns out that cow originated in Canada and came into the United States.

Japan is one of our largest markets, and it is a critical market for us to reopen. USDA is in the midst of negotiations today for the reopening of that market. Taiwan has also agreed in principle to resume imports of U.S. beef and beef products. Removal of restrictions by some of our major Asian trading partners is on the horizon.

In 2003, we exported $1.3 billion worth of beef products to Japan, $814 million worth of beef to South Korea, and $331 million to Canada. In 2004, after the one BSE positive cow was found in Washington State, we exported essentially zero dollars' worth of beef products to Japan and South Korea and $98 million worth of beef to Canada. These countries are aware of our rulemaking and are watching how we address this issue with Canada. We have a huge stake in seeing worldwide trade in beef resume on the basis of sound science rather than on trade protectionism.

Make no mistake, we are sending a very powerful message today with our actions on this resolution to all of our trading partners. For countries prohibiting beef imports from the United States, whether we continue to adhere

to sound science in our dealings with Canada could influence their future actions toward our beef. Canada has met our minimal risk standards, and we must adhere to the policy dictates of sound science or face others using arbitrary standards toward us.

Currently, there is a suit filed in U.S. district court in Billings, MT, challenging USDA's BSE minimal risk region rule. Yesterday, after a hearing, a temporary injunction was granted staying the implementation of the final rule and ordering the two parties to sit down and agree to a schedule for a trial which must take place in the short term because of this being a temporary injunction. At this point in time it would be wise to allow the court proceeding to play out. It would be premature to pass this resolution and interfere with the operations of that court. We can always come back after the judicial proceedings are finished and express our disapproval. It is appropriate for us to allow the third branch of Government to finish their review of this rule, and we should not usurp the judiciary on this matter.

In summary, according to the best science available in our hands today, further opening of the U.S. border to Canadian bone-in beef and cattle under 30 months of age does not pose a serious threat to the U.S. beef herd. It certainly does not increase the risk of human BSE exposure. Recent evaluations of the Canadian cattle industry by the NCBA indicate that there is not a wall of cattle that will flood into the U.S. market from Canada should this rule go into effect.

The Canadian Government, USDA, and the NCBA have all reviewed the Canadian BSE safeguards and found them sufficiently robust and protective for trade to be expanded as this rule proposes. Beef exported from Canada has to meet the same science-based standards that have been successfully protecting our consumers and beef producers for many years.

It has been stated before—and I repeat—that Americans are blessed with the most abundant, affordable, and safest food supply in the world. The action we take today will not make our food supply safer. It merely enforces and encourages the actions of those who would restrict trade with measures not related to sound science.

I encourage my colleagues to say yes to sound science by saying no to this resolution today.

I yield the floor.

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

Mr. CONRAD. Mr. President, I thank the Chair and the chairman of the Agriculture Committee. I respect the chairman of the committee, but on this issue we have a profound difference. Let me alert my colleagues and their staffs who are watching, this is going to be a consequential vote. We are only spending 3 hours on this issue this morning because we are operating under special procedures. But let every colleague of mine understand: They are going to be responsible for the votes they cast today. The risk that is being run here is significant.

Let me remind my colleagues what happened in Europe when mad cow disease got loose on their continent. One hundred forty-eight people died in England alone. Nearly 5 million head of livestock were slaughtered in that country. They found 183,000 head that were infected, and they believe there were 2 million head of livestock infected in England alone that they were not able to complete tests on because of the magnitude of the crisis.

This vote may be critically important to the health of consumers and to the health of an entire industry. Make no mistake. When the question is science, that is precisely what this debate is about. Is, in fact, science being used by our neighbors to the north or are they simply putting regulations on the books that are not enforced?

The record is clear and the facts will demonstrate conclusively, Canada is not enforcing their own regulations that are based on sound science. But if you don't enforce the regulations, if you don't do the inspections, what does it mean? What does it mean to have on the books regulations that are based on sound science if they are not enforced?

I introduced S.J. Res. 4 on February 14 pursuant to the Congressional Review Act. It is a resolution to disapprove of the final rule produced by USDA that designates Canada as a minimal risk region for BSE or mad cow disease.

Let's review the facts. Canada already has four known cases of mad cow disease. That is not speculation. That is not based on some wondering about what is happening in Canada. That is based on facts, four known cases. In addition, they have one case of a cow imported from England positively tested for mad cow disease. So this is not some theoretical discussion we are having today. They have mad cow disease. It is demonstrated.

Now the question is, Should we run the risk of opening our border to livestock imports from Canada when the evidence, I believe, demonstrates clearly they are not enforcing their regulations to reduce the risk to them and to us?

I am taking this action because opening our border to Canadian cattle and expanded beef product imports at this time is risky and, I believe, premature. Allowing the USDA rule to go forward could have very serious consequences for the human and animal health in this country.

Let me be perfectly clear. It has never been my intent to keep the border with Canada closed on a permanent basis. Over the last several weeks, I and many of my colleagues from both sides of the aisle have raised concerns about this rule. Unfortunately, those concerns have fallen on deaf ears. The Secretary of Agriculture has refused to withdraw the rule so sensible modifications could be made. This has left us with no option, other than this process, to stop a bad rule from becoming effective on March 7.

We all know a judge has issued an injunction against the rule, but none of us can know when the judge might withdraw his injunction. Our obligation and our responsibility is clear. This rule can go forward on March 7 absent our action. Reopening the border under the conditions provided in the rule poses, I believe, grave safety risks for our consumers, serious economic risks for the U.S. cattle industry, and it complicates our efforts to reopen export markets.

BSE is an extremely dangerous disease. As I indicated earlier, after it was first identified in England in 1986, England suffered nearly 150 deaths from this disease. Nearly 5 million head of livestock were slaughtered. Around the world, additional human deaths from Creutzfeld-Jacobs disease have been linked to BSE. So we must be very cautious before we consider opening our border to imports from a country known to have BSE.

Again, this is not a matter of speculation. We know they have mad cow disease in that country. Since the European outbreak, scientists from around the world have been engaged in efforts to learn more about the disease. They have developed methods to test, control, and eradicate BSE. Through the international organization for animal health, known as the OIE, experts have designed science-based standards for the safe trade of beef products and live cattle from countries that have, or may have, BSE.

In particular, because BSE is transmitted through livestock feed contaminated with animal protein containing BSE, it is critical that countries adopt measures to ensure that animal protein and other specified risk materials are not present in cattle feed. That is what is so important to understand here. This is a matter of what is in the feed that the cattle are eating. The OIE guidelines require a ban on cattle feed containing meat and bone meal from cattle be in effect for 8 years as the primary means to reduce the likelihood of BSE infecting cattle.

Unfortunately, the USDA does not appear to have followed OIE guidelines in developing its rules. Canada's ban went into effect in August of 1997; that is less than 8 years ago. Even then, the Canadian rules allowed for potential BSE contaminants that were in the feed manufacturing and marketing system. Unfortunately, the way the Canadians put their rule into effect, it allowed potential BSE contaminants to work their way through the industry. Moreover, with respect to Canada, USDA has not done a thorough evaluation to ensure that Canada's cattle feed is not contaminated with animal proteins.

The U.S. has appropriately blocked cattle imports from Canada since Canada confirmed its first case of BSE in

May of 2003. Concerns were only heightened when BSE was confirmed in a dairy cow of Canadian origin in Washington State in December of 2003. This case resulted in many important U.S. trading partners banning the importation of U.S. cattle and beef, a situation that continues today.

Let me make this clear. When our friends say we have to open our border so others will open their borders to us, you have it backwards. The reason other countries have closed their borders to our exports is because of their concern about our allowing imports from Canada, when they have known cases of BSE, and when it is quite clear that Canada is not enforcing their regulations to prevent additional outbreaks of this serious disease.

So it is very important that we and USDA move slowly, cautiously, and deliberately, and evaluate all possible risks before reopening our border to Canadian cattle. But the USDA rule doesn't do this. In particular, Canada has not effectively implemented measures to contain and control BSE for 8 years, as required by the OIE. Moreover, USDA has applied a very loose and flexible interpretation to the specific recommendations developed by the OIE.

In fact, it appears that Canada has not dedicated the necessary resources for enforcement and compliance within a large part of its feed manufacturing industry. Colleagues, staffs who are listening, hear this well. There are nearly 25,000 noncommercial, on-farm feed mills in Canada that produce about 50 percent of Canada's livestock feed. Canada has inspected only 3 percent of these facilities over the last 3 years. This is a gaping hole in their compliance program.

Let me repeat for anybody who missed it the first time. In Canada, there are 25,000 on-farm feed mills that are producing feed. Only 3 percent have been inspected in the last 3 years. Are we going to bet the lives of American consumers, bet the economic strength of an entire industry on that kind of a review regime? Is that what we are going to do today? I hope not.

Since USDA announced its final rule designating Canada as a minimum-risk region for BSE, Canada has confirmed two additional BSE cases. Let me repeat that. Since USDA proclaimed Canada to be minimal risk, two more cases of mad cow disease have been discovered. The most recent one is particularly disturbing, because it involves a cow born several months after Canada implemented its ban on animal proteins in cattle feed. Again, let me repeat that. The most recent case of mad cow disease in Canada is in a cow that was born after Canada implemented its ban on animal proteins in cattle feed. Let's connect the dots. Four cases of mad cow disease in Canada and an additional one of a cow imported to Canada from Britain. Half of the Canadian feed industry has been inspected in only 3 percent of the cases over the last 3 years. The most recent cow discovered with the disease was discovered after the Canadian ban on animal proteins in cattle feed was put forward.

What does this tell us? I believe it tells us the Canadian ban has been ineffective. It is not just my belief; we have evidence from Canada's own inspection service. Let's put up the first chart, if we could. This is from the Vancouver Sun, December 16, final edition:

> Secret tests reveal cattle feed contaminated by animal parts: Mad cow fears spark review of ''vegetable-only'' livestock feeds.

It says that according to internal Canadian Food Inspection Agency documents—obtained by the newspaper through the Access to Information Act—70 feed samples labeled as vegetable-only were tested by the agency between January and March of 2004. Of those, 41, or 59 percent, were found to contain undeclared animal materials.

This is the risk being run if this border is open to Canadian cattle on March 7 of this year. We know what happened in Europe. In England alone, 146 people died. Nearly 5 million head of livestock were slaughtered. Canada has 4 known cases of mad cow disease, and their own inspection service finds that in 59 percent of the cases where they have done testing, material that was not supposed to be present was present—the very material that can lead to the disease. Are we going to run the risk of allowing that to come into the United States?

On February 2, 2005, 1 month ago, the Canadian Food Inspection Agency finally issued a report concerning these very serious charges. Of 65 Canadian samples that received further testing, 54 cases containing animal protein were determined to be proteins that were not prohibited. That is good news. Unfortunately, in 11 cases, or 17 percent, Canada could not rule out the presence of prohibited material.

Since October 2003, our own Food and Drug Administration has issued 19 import alerts concerning imported Canadian feed products that are contaminated with illegal animal proteins. Eight of these import alerts against Canadian livestock feed manufacturers are still in force.

I am getting very able assistance by my colleague from Kansas, Senator ROBERTS. That is high-class help.

Let me repeat this because it is important for my colleagues to understand. Since October of 2003, our own FDA has issued 19 import alerts concerning Canadian feed products contaminated with illegal animal protein. Eight of those import alerts are still in force. Here they are: Muscle tissue in feed, where it is not supposed to be; muscle tissue and blood material in feed, where it is not supposed to be; May 10, 2004, muscle tissue and blood material in feed, where it is not supposed to be; February 5, 2005, mammalian bone and bovine hair in feed; October 28, 2003, suspect muscle tissue and unidentified animal hairs; April 6, 2004, blood and bone material present.

These alerts—every single one of them—are still in force today. Are we going to run the risk here of opening this border before we can be confident that Canada is enforcing their own regulations?

Finally, Canada has recently implemented new rules to further restrict the use of animal protein in livestock feed, as well as in fertilizer.

Listen to this: Canada's own justification for tightening its regulations is to reduce the potential for the cross-contamination of livestock feed products and fertilizers with animal protein that might contain the BSE prions. To me this suggests clearly that even Canadian officials are concerned that the enforcement and compliance with existing regulations may be inadequate.

As I noted in a letter I sent with Senator HARKIN, Senator JOHNSON, and Senator SALAZAR to the Secretary of Agriculture, there is concern that not enough time has elapsed to be certain that Canada's education, surveillance, and testing measures are truly indicative of their level of BSE risk.

The bottom line is this: Canada has not achieved the necessary level of compliance to justify designating it as a minimal risk region. Their failure to enforce their own BSE measures could have serious consequences if USDA proceeds to reopen the border.

What is the risk? First and foremost, it could create potential dangers for consumers in this country. The Consumer Federation of America has registered concern about the ramifications for consumer health and safety if the border reopened and support this resolution. They said:

> The Department of Agriculture's rule to open the border to Canadian cattle and cattle products under 30 months of age is decidedly less stringent than the international standards put forth by the [IOE].
>
> . . . [I]t is important that USDA reconsider its push to open the Canadian border and reexamine the risks that such an action may pose to the U.S. consumers.

It is not just the consumer groups that are concerned. Agricultural groups are concerned as well because this would not only pose a danger to our consumers but to an entire industry.

The National Farmers Union and R–CALF USA have expressed strong support for the resolution because of their concern about ensuring the continued safety and integrity of our domestic cattle industry. This is what the Farmers Union has said:

> . . . National Farmers Union President . . . issued the following statement.
>
> ''We believe it is inappropriate to proceed with reopening the border at this time given Canada's most recent discoveries of BSE positive cattle and the uncertainty of how many additional cases will be detected.
>
> I urge members of the United States Senate to support and cosponsor this important resolution.''

R–CALF USA said:

> United States cattle producers should not be excluded from protections afforded by the more rigorous science-based BSE standards

recognized throughout the world as necessary to effectively manage the human health and animal health risks associated with BSE.

Our major export markets have remained closed to U.S. beef exports, even though there has been no indigenous case of BSE in the United States. Compared to 2003, our beef product exports are off by over 82 percent. Let's connect the dots. We have four cases of BSE, mad cow, proven in Canada. We have none in the United States. And yet countries we export to have remained closed to us. Why? Because of the risk they see from Canadian cattle coming into our market and being then further shipped to them.

Here is what has happened to our U.S. beef exports: in 2003, $3.2 billion, down to under $600 million in 2004. Prior to the discovery of BSE in Canada, Canada's total live product and beef product exports to the U.S. amounted to over $2.2 billion. In 2004, their exports to the United States were cut in half, $1.2 billion.

U.S. ranchers and our cattle industry have suffered greater trade losses in our overseas markets than Canada has experienced because of U.S. limitations on their sales. In fact, our losses have been twice as big as theirs.

I believe that reopening the border now before we have reached agreement on reopening our export markets will only give our trade partners a further excuse to delay reopening these critical markets for U.S. producers.

We heard earlier a reference to the National Cattlemen's Beef Association, which, prior to the new cases of BSE in Canada, supported reopening the border. They have recently adopted a new policy. It requires 11 conditions to be met before we designate Canada as a minimum-risk region. Of those conditions, only three will be met under the current rule.

Let's be clear, the National Cattlemen's Association has outlined 11 specific items that need to be met. Only three of them have been under the rule. And it is not just a national issue. My State perhaps has as much at stake as any. The North Dakota State Legislature recently passed a resolution urging that our border with Canada remain closed for live cattle and beef product trade. My legislature is overwhelmingly Republican—overwhelmingly. They adopted this resolution overwhelmingly, saying keep this border closed until you can assure us and assure our people that it is safe. They have made a determination that nobody can give that assurance today.

The recent announcement by Secretary Johanns to restrict the importation of Canadian beef products to those from cattle under 30 months of age is a step in the right direction; however, the announcement does not address the unresolved concerns about Canada's compliance with its own feed regulations.

It was my hope that our new Secretary would withdraw the proposal to resume trade when he learned of these serious issues. But it now appears that the only way to stop this rule is for Congress to block it. Therefore, I hope my colleagues will join me in supporting this resolution of disapproval.

At the very least, we ought to delay this rule from being put into effect until we have a better sense of what is happening in Canada. There is an investigation ongoing. Why ever would we decide to go forward and open this border before our own investigation is complete?

Let me conclude as I began by saying to my colleagues, this is a consequential vote. None of us know precisely how great the risk is. What we can say with some certainty is there is risk, and the consequences of a failure to get this right could be enormous. I hope my colleagues think very carefully about this vote.

I thank the Chair and yield the floor.

Mr. CHAMBLISS. Mr. President, I yield 10 minutes to the distinguished Senator from Kansas, Mr. ROBERTS.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the chairman for yielding.

I rise today in opposition to the joint resolution that has been brought forward by the distinguished Senator from North Dakota. This is a great ''while I'' speech. While I share the Senator's concern, while I share his sense of frustration, while I share his sense of making sure that our beef is safe from BSE, I cannot support the resolution.

I am from Dodge City, KS. This is a town that began during the cattle drives of the Wild West days and which still bases much of its economy on the beef industry. You cannot have anybody more interested, more vitally concerned about the beef industry than this Member. In fact, the number of cattle in Ford County, where Dodge City is located, far outnumbers the citizens of the county. I used to say they were in a lot happier mood.

Not only is the beef industry king in Ford County, Dodge City, southwest Kansas, and the State of Kansas, it is a huge industry representing over $5 billion in annual revenues. We are a State with 6.65 million head of cattle compared to a human population of 2.6 million. Cattle represented 62 percent of the 2003 Kansas agriculture cash receipts, and the processing industry alone employs over 18,700 Kansans. We rank in the top three of virtually every major beef statistic. There are few issues as important to the people of Kansas as the issue of how we handle actions that are related to BSE.

Prior to the discovery of BSE in the United States in December 2003, Kansas was one of the top exporters of beef to the Japanese market. Since that fateful day in December of 2003, Kansas and U.S. beef producers have been locked out of the Japanese market.

We should not still be locked out of that market by taking action like we may do as of today on this vote. The international science—I mean international science in every country concerned—says our cattle under 30 months of age are safe and not at risk for BSE. Yet we have agreed to not send meat from any animals under 20 months of age to Japan. Still that market remains closed to the United States.

The market is not closed because of scientific concerns. It remains closed because of internal Japanese politics, and that is a fact. But we are moving forward, and I am hopeful that by continued pressure from the administration—from the President, the Secretary of State, everybody who has been in contact with the Japanese Government, and this Congress, many Members of Congress—we can somehow reopen that market, we can expedite that process.

But today, be careful what you ask for. We will take a giant step backward in our efforts to reopen markets to Japan—or, for that matter, anywhere—if we vote to approve this resolution. The same international science and guidelines that say that U.S. beef and animals under 30 months of age are safe also say that the beef and animals in Canada under 30 months are safe as well. That is the international standard. That is the sound science standard.

If we vote today to approve this resolution, the United States will be taking the same actions as the Japanese. I am not going to say it is based on politics. I know all of the concerns of my colleagues who are up on the northern border and the long history of those disputes. But we are going to be basing our decision on those concerns instead of sound science. I fear it will have both short-term and long-term ramifications. In the near term, it will undoubtedly set us back in our efforts to reopen the Japanese export market.

How can we argue that they are not basing their decisions on sound science if we cast a vote that is not based on the same sound science? We have staffers today meeting, Agriculture Committee staffers, under the direction of the distinguished chairman, with ambassadors from Japan. If we vote on this today, why meet? What kind of progress could we possibly make? Long term, how can our negotiators in this Congress argue in the international arena that all agricultural issues—not just this issue—including biotech crops, beef hormones, food safety, and any number of other issues should be based on sound science if we ourselves vote on the concerns of individuals?

I have heard some Members talk about they are going to vote for this because they worry about the lumber that is coming in from Canada. Are we about to open a trade war? I am concerned about that. But this is not the way to approach it.

I understand the concerns of many of our producers and of my colleagues who support this resolution. Senator

CONRAD—I affectionately call him the agriculture program policy chart man because he has, at last count, 4,153 charts he has brought to the floor since I have had the privilege of serving here—is really a champion explaining rudimentary agriculture program policy, not only to colleagues but to all who watch these proceedings.

So I understand his concern. I did oppose the entry of beef from animals over 30 months of age because it did not make any sense to allow that beef in the United States if we would not allow any cattle over 30 months due to safety concerns. That is a given.

The international science and guidelines are clear on this issue. Animals under 30 months and meat from those animals is safe. If we vote for this resolution today, we will turn our back on the longstanding U.S. position in all international trade negotiations. We are going to hurt our efforts to reopen the Japanese market. We will be setting a very dangerous precedent for future trade policy battles, and Lord knows we are going to have those with the WTO ruling brought by Brazil.

We have too much at risk to base this decision, no matter how difficult it may be, no matter how strong our feelings may be, on the politics and the passion of the moment. The long-term future of the U.S. beef industry may very well turn on this action we take today. I fear that this vote in favor of this resolution will send a negative message that will come back to haunt us on this issue and many other agriculture trade matters for years to come. I do not think we can allow that to happen. So I respectfully disagree with the Senator from North Dakota and I urge the defeat of this resolution.

I yield back whatever time I have remaining.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I have great respect for the Senator from Kansas. He is my friend. I profoundly disagree with him about the conclusion. I think the risks run the opposite way. We want Japan to open their market to us? Then we better be able to assure them that our market and our supplies are safe. I believe the evidence is overwhelming that Canada is not enforcing their own regulations. Their own tests show it. They are not our tests. Their tests show they are not enforcing the regulations.

I remind my colleagues of the consequences of a failure to get this right. In England, 146 people died. Almost 5 million head were slaughtered. There are four known cases of mad cow in Canada today, and an additional case of a cow imported from England. And we are going to open our border on March 7, when the Canadians' own testing agency shows that in 59 percent of the cases animal matter is present where it is not supposed to be? Is that what we are going to do? I hope not.

I yield 15 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I thank my colleague from North Dakota for his leadership on this crucial issue before the Senate today.

I rise to speak on an issue of enormous significance to consumers, producers, and ranchers in my home State of South Dakota and all across America. The U.S. border is scheduled to be thrown open on March 7, 2005, to Canadian live cattle and other assorted bovine products. While the rule was modified to ensure that live cattle and beef imports come from animals under 30 months of age, which is a modestly helpful adjustment, I retain profound concerns about the lack of scientific basis for the decision to throw open the border and feel that the timing of this administration decision could not possibly be worse for consumers and producers alike.

We have seen four instances of BSE in cattle of Canadian origin, while the United States has not experienced even one indigenous case. In fact, two of these cases were detected after the Department of Agriculture released their final rule. I think those numbers become even more troubling when we compare the annual slaughter populations or total animals slaughtered in that time frame.

There is an overwhelming difference when our neighbors to the north slaughter roughly less than 10 percent of the U.S. slaughter population and yet they have all of the indigenous BSE. I am concerned that the Department of Agriculture's rule is not based all on sound science, and I agree, science ought to be the determining factor.

The USDA has chosen instead to adopt weaker standards in their final rule. Animals entering the United States will not and cannot be tested for BSE and there are no safeguards available to United States producers to relieve the effect of the millions of Canadian cattle lined up at our border.

The final rule establishes minimal-risk regions for BSE and recognizes Canada as a minimal-risk region. However, that rule fails to recognize the internationally accepted standards set forth by the OIE, or World Organization for Animal Health, for minimal-risk regions, which are the only recognized standards that are accepted on a worldwide basis.

Transmission of BSE is, in fact, still unclear and uncertain. Maintaining segregation of the Canadian and American herds to the largest extent possible is the only scientifically sound approach, and USDA's final rule only seeks to mix these cattle populations.

The Bush administration and a Japanese Government panel have discussed certain parameters for importation of American beef. Namely, imported products would be from animals age verified at under 20 months of age and adhere to a certain grade of meat. These criteria were set because of Japanese consumer concerns. I fail to see how allowing the importation of Canadian cattle and products from cattle under 30 months of age into the United States, 10 months older than American beef that could be potentially exported to Japan, can possibly be beneficial for regaining consumer confidence in Japan or for maintaining consumer confidence in the United States.

At one point, we were exporting about 10 percent of our beef to foreign nations, the Japanese being the largest buyer of American beef abroad. The Japanese, because of their own experiences with mad cow disease and human disease in that nation, are understandably very concerned that if they buy beef from another country, they want that beef to, in fact, come from a non-BSE country. It is the United States that jeopardizes our export market by throwing open the doors to a huge tidal wave of Canadian animals into the United States, mixing the whole herds together and then selling that export product or attempting to sell that without being able to identify whether we are, in fact, selling Canadian product or American product to the Japanese or anyone else. It is no wonder that throwing open this border is going to further jeopardize what is already a difficult circumstance for American exporters.

Then for American producers, they wind up with a double whammy. The Canadian import into the United States is roughly equivalent to about 10 percent of our herd, while we lose and further jeopardize an export market that had been 10 percent of our herd. That is a 20-percent swing jeopardizing consumer confidence in the United States and having the potential to have devastatingly negative consequences for livestock producers in America.

I think the time is overdue, and USDA should spend more time being concerned about American livestock producers and a little less time being concerned about the viability of Canadian livestock producers, given the kind of public health and the export consequences this opening the border will entail.

We lost a $1.7 billion export market when Japan shut their borders, and what we need is consistent leadership and guidance from the USDA that recognizes we ought to abide by internationally accepted standards for minimal risk and that a premature opening of that Canadian border not only will serve to undermine consumer confidence in America but will further jeopardize our export market abroad. I believe the Japanese and other countries would love to buy American beef, but they want to know it is American beef that they are buying and not beef that has simply been funneled through our country from BSE-infected nations.

USDA's decision is not only an economic threat for the viability of our rural communities, but it is also a consumer choice issue. Consumer groups

have repeatedly voiced concern over this final rule. USDA is accountable and obligated to ensure that our consumers and ranchers are protected, which means keeping our borders closed for now. USDA has not been working for American consumers, ranchers, and producers with this final rule.

There are several steps that should be taken before the Department of Agriculture should even consider opening our border with Canada, and country-of-origin labeling is one of those steps. I have long advocated a mandatory country-of-origin labeling program. The administration delayed COOL for 2 years during closed-door consideration of the 2004 Omnibus appropriations measure. A mandatory country-of-origin labeling program for beef is now not scheduled to be implemented until September 30, 2006. Yet, even lacking that ability of consumers to make knowing choices about the origins of the meat they serve their family, USDA would open the borders to a cattle population that poses a significant risk without even ensuring consumer choice in the grocery store aisle to buy American beef. I introduced bipartisan legislation to ensure that Canadian beef and cattle could not come across the border until country-of-origin labeling is implemented because that is simply the right thing to do, and I am pleased that we have bipartisan support for that measure.

Because USDA insists on plowing ahead with an outrageously ill-timed decision, congressional action is required and we have a congressional resolution of disapproval to consider. An ample number of my Senate colleagues felt this opening the border rule should be set aside and chose to sign their names on the petition to do so. The vote on this resolution is an opportunity to stop a flawed course of action, and I urge my colleagues to vote for this resolution of disapproval. It is crucial that USDA act in a responsible manner and revoke the final rule immediately.

I am hopeful the administration will recognize the message this body will send today about the severity and the urgency of this situation. We need America to side with the best science on the Canadian border. We need America to be prudent relative to the enormous risk to both the livestock economy and the public health in America and the jeopardy of opening the border to our potential export market for beef.

I urge my colleagues to join us in supporting passage of this resolution of disapproval and to send a strong bipartisan message to USDA and to the White House to reverse course, to allow greater time for the best science to determine what in fact is happening in Canada relative to BSE, relative to their feed regime, and to give us an opportunity to be assured we are not endangering either our economy or the public health in the United States of America.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Mr. President, I yield 20 minutes to the distinguished Senator from Colorado, who by profession is a veterinarian and certainly has, in addition to legislative knowledge, professional knowledge about this issue, Mr. ALLARD.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from Georgia for yielding 20 minutes. As the Senator mentioned, animals have been an important part of my life. I grew up on a cattle ranch and I have dedicated my life to animals and animal diseases.

I rise today to tell my colleagues that I do not believe the policy that is now being proposed by the U.S. Department of Agriculture is risky, I do not think it is premature, and I think if we want to protect our cattlemen, we must pursue a policy of opening our borders of free trade. Colorado is one State that has historically benefited from the cattle industry and today it remains an important part of our economy.

I will respond to a few specific points that were mentioned by my colleague on the other side. I will talk briefly about the people who became ill as a result of the BSE prion. It is a form of protein, modified virus, in Europe. The diet of Europeans is markedly different than the American diet in the fact that they view brains and spinal cord tissue as a delicacy. Here in the United States and in Canada, as a part of our processing of meat, we discard our central nervous system tissue, so it does not get into the food supply. We have rigorous enforcement in the United States. Canada has rigorous enforcement. As late as February 22, we had a group of scientists go to Canada, and they reported back to us that the enforcement of the rules and regulations in Canada was very robust, as it is here in the United States.

But I think the most important thing we learned from the outbreak in Europe, and what we have learned with time, is that the prion, the organism that causes mad cow disease, occurs as a result of ruminant upon ruminant. By using that terminology, I mean that there are food supplements that are developed from animals, mostly ruminants, that then are fed back, either calcium or phosphorus, to the animal. When that happens that provides a vehicle for the transmission of the prion, the infectious organism. It doesn't transmit directly animal to animal by live contact or by human to animal by live contact. It is passed in the food supply when you have a ruminant supplement from another ruminant being fed.

Finally, of the three or four cases that we have in Canada, three of those actually were before the provisions were put in place by Canada and the United States to prevent the consumption of ruminant-on-ruminant feeds—except for one case. But that one case occurred very close to 1997. As a result of more rigorous efforts by both Canada and the United States, I believe beef is a good product, and I plan on eating beef. I do not hesitate for one moment talking to my colleagues about how good I think beef is and how we should not be overly concerned about the health effects of beef in our diet.

The closure of our Canadian border has cost Greeley County, CO, which is one of the largest agricultural-producing counties in the United States, alone, $250 million to $300 million over the past year from diminished economic activity due to declining production at one single meatpacking facility. This is a result of the Canadian border closure. Totally, the economic impact of the border closure throughout the United States is $3 billion. The border with Canada should be open based on sound, scientific principles that ensure the integrity and safety of the U.S. cattle food supply.

The U.S. Department of Agriculture approach to these discussions has been rational and science based. Sound science is critical because it separates fact from myth and ignores mad cow hysterics. Television pictures of seizure-stricken cows are intended to draw viewers but do not represent the truth behind the image.

Five other Senators joined me in April of last year in support of the immediate reopening of the Canadian border following these principles. Joining me on a letter to the U.S. Trade Representative were Senators BEN NELSON, Senator CAMPBELL, Senator MURKOWSKI, Senator HATCH, and Senator BROWNBACK.

I ask unanimous consent to have that letter printed in the RECORD.

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

WAYNE ALLARD,
U.S. SENATE,
Washington, DC, April 6, 2004.

Hon. ROBERT ZOELLICK,
Seventeenth Street, NW., Washington, DC.

DEAR AMBASSADOR ZOELLICK: The purpose of this letter is to bring to your attention our concerns relating to the present economic and trade situation facing the U.S. beef industry as a result of the Canadian border closure. We ask for your assistance to facilitate the immediate reopening of the border to trade in live cattle, based on sound scientific principles that will ensure the integrity and safety of the U.S. cattle inventory and the American food supply.

Since the discovery of BSE in North America, the U.S. beef industry is confronting the most significant challenge in its 105-year history. The economic impact of the border closure has escalated over the past year and the industry is now at a point where difficult decisions are being made to protect long-term job stability. For example, beef processing plants across the country have had to reduce hours significantly to absorb the increasing pressure of the current situation, resulting in job loss and reductions in worker's take home pay. To date, the industry has suffered over a 12 percent reduction in U.S. fed cattle

being processed for the domestic and international market place, at an estimated $12 billion loss to the economy and impacting over 80,000 direct and indirect jobs.

As recently demonstrated by the Harvard Center for Risk Analysis (HCRA), there is no body of scientific evidence indicating that there is any potential risk to the American consumer in allowing live Canadian cattle under the age of 30 months to enter the U.S. marketplace destined for fattening or slaughter. Toward this end, the U.S. Department of Agriculture's (USDA) proposed rule to amend its BSE regulations to allow the United States to import live cattle less than 30 months of age from Canada harmonizes the health interests of the American public with the international trade interests of the United States, provided that it is implemented based on sound scientific principles that will ensure the integrity and safety of the U.S. cattle inventory and the American food supply. By encouraging more practical, science-based guidelines relevant to BSE risk management, USDA's proposed rule will help restore the U.S. beef industry's ability to remain competitive in an increasingly global marketplace and protect long-term job stability in the United States.

While the United States cannot unilaterally open trade borders with Japan, Korea and other key trade partners, USDA can act expeditiously with respect to reestablishing live cattle trade with our North American trading partners. We hope that actions can be expedited toward this end as well as with our other trade partners to remove scientifically unjustified barriers to trade.

We appreciate the attention and efforts that you have given this serious matter to date and look forward to continuing to work with you to ensure that adequate and science based protections are in place to ensure open and free trade while also protecting the health and safety of all Americans.

Sincerely,

WAYNE ALLARD,
United States Senator.
LISA MURKOWSKI,
United States Senator.
ORRIN HATCH,
United States Senator.
BEN NELSON,
United States Senator.
SAM BROWNBACK,
United States Senator.
BEN NIGHTHORSE CAMPBELL,
United States Senator.

Mr. ALLARD. The USDA Minimal Risk Region rule should be implemented because it is grounded in solid, sound science and will help end a situation that has wreaked havoc on beef trade for too long. It will protect the integrity of the human supply system and stabilize agricultural trade.

Canada meets the requirements of a minimal risk region, based upon a number of its actions. It has prohibited specific risk material in human food, as we do here in the United States. It placed import restrictions sufficient to minimize exposures to BSE. It has built and structured surveillance for BSE at levels to meet or exceed international guidelines, as we do here. And it has enacted a ruminant-to-ruminant feed ban. Finally, the appropriate epidemiological investigations, risk assessment, and risk mitigation measures have been imposed.

Opening the border with Canada will help restore the beef industry's ability to remain competitive in an increasingly global marketplace and protect long-term job stability in the United States.

I have a chart that reflects Canadian beef exports. If we look over here to 2003 when the mad cow disease began to impact Canada, we can see, obviously, that there was a reduction in billions of pounds of carcass weight that was exported from Canada. But here we are moving from 2004. Not all the figures are in, but they are indicating we are going to get a pretty steep climb back in exports from Canada. And based on projections for 2005, exports from Canada are going to reach a historic high, despite the fact they have had mad cow disease in Canada.

These facts come from a reputable analyst, analyzing firm based in Denver, CO, that traditionally cattlemen have relied on to analyze beef markets throughout the country.

Let's look at the chart for U.S. beef imports from Canada. Obviously, in 2003 we saw a reduction in the amount of beef imports from Canada. Again, this is a million pounds of carcass weight over time. What we see in 2004 is that the imports from Canada have exceeded an all-time high, despite the fact that we have mad cow disease.

The point is, we are importing Canadian beef at record levels. We need to change that policy because processors are moving their plants to Canada. More and more people are going into the Canadian beef business. As a result, we are at risk of losing our own market share of beef.

The Greeley Tribune published an editorial stating that the United States must open its border with Canada. The Tribune is published in Greeley, CO, Colorado's most productive agricultural county.

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

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

[From the Greeley Tribune, Mar. 1, 2005]

OPEN CANADA TO U.S. BEEF SALAZAR MUST FOLLOW ALLARD'S EXAMPLE WITH JAPAN

U.S. Sen. Wayne Allard is to be commended for his letter to the Japanese ambassador last week demanding that the Japanese government reopen its market to U.S. beef products.

Allard was joined by almost 20 other senators in the letter that was hand-delivered to Ambassador Ryozo Kato by Secretary of Agriculture Mike Johanns, who expressed his appreciation to Allard in taking the initiative to address the issue.

In his letter, Allard—a Republican from Loveland and Colorado's senior senator—noted that since the only confirmed case of bovine spongiform encephalopathy (mad cow disease) in the United States, the U.S. government has worked diligently to take the necessary steps to earn the confidence of the Japanese public, in many respects exceeding internationally established scientific requirements. Yet the Japanese government has continued to drag its collective feet in reopening the border.

Allard hinted, rather strongly, that Congress could be forced to take retaliatory actions on Japanese imports—which exceed $118 billion annually—while expressing hope that step would not have to be taken.

Colorado's freshman senator, Ken Salazar, was one of the others who signed the letter.

But at the same time, Salazar has joined eight other Democratic senators who signed a resolution of disapproval of the USDA's proposal to reopen the Canadian border to imports into the United States of live cattle starting this month. Salazar cited safety and accountability as key concerns on that move.

Salazar should reconsider that position.

The Canadian border is already open. Boxes of Canadian beef—beef from the same cattle that are currently being stopped at the border—are flowing into the United States, resulting in a tidy profit for Canadian processors. If science says that beef is safe, then so are the cattle which are producing it.

Economists have estimated that in the first four months the border was open to Canadian beef. Weld County lost about $100 million from diminished economic activity due to the declining production levels at the Greeley beef-packing plant of Swift & Co. alone. That does not include Fort Morgan's Cargill plant.

So keeping the border closed to live cattle is contributing to the outsourcing of U.S. jobs to Canada, which continues to expand its processing industry to handle all its cattle, while the U.S. beef-processing industry shrinks—running about 10 percent below preban averages. The jobs moving to Canada are not likely to return.

Industry officials have determined that reopening the border will not flood the U.S. market because the Canadian market is relatively current. Those Canadian processors have been running six days a week around the clock to process their cattle, then sell the beef in the United States or in the markets where they compete with U.S. beef.

During his campaign, Salazar said he intended to put his constituents ahead of party politics. yet in this case, he sides with primarily Democratic legislators against the Bush Administration.

This position, being pushed by senators without major beef-processing plants, puts Salazar at odds with the best interests of his constituents and his own state. He needs to put science and the people who helped send him to Washington ahead of politics.

We urge the new senator to follow Allard's lead with the Japanese and call for the U.S. border to be opened to live Canadian cattle.

Mr. ALLARD. Many of the supporters of the Resolution of Disapproval argue that because of U.S. policies, U.S. corporations are outsourcing jobs. The border closure has allowed Canada to grow its beef industry and increase its slaughter capacity, making Canada into a global competitor. While U.S. jobs are lost because of an unfair trade policy that allows cheap Canadian meat into the United States, they are being replaced in Canada as it bolsters its beef industry. Estimates will show that Canada will have the industry capacity to replace U.S. beef by May of 2005. Supporters of this resolution support the outsourcing of U.S. jobs.

During the past several years, Canada's annual cattle slaughter has been 3.2 to 3.3 million head. This is equivalent to about 65,000 head of cattle slaughtered per week. In 2004, Canadian slaughter was about 30 percent larger than during 2003. In 2005, Canadian cattle slaughter capacity is expected to

increase to about 95,000 head per week. Canada is expanding available slaughter capacity in the country so it can be less reliant on the U.S. market to process animals. Reliance on the U.S. market will continue, but Canada will compete effectively against the United States in the world marketplace.

According to the Canadian Meat Council, since May 2003, the Canadian beef industry has increased its daily beef capacity by more than 30 percent. The additional Canadian slaughter capacity that is available, or planned, will allow the Canadian beef industry to increase cattle slaughter totals by about 25 percent from 2004 to 2007.

Thanks to the border closure, thousands of U.S. workers have been laid off or have had their operations suspended. In Greeley, CO, located in the State's largest agricultural county, nearly 1,000 workers lost their jobs thanks to the closure.

Weekly cattle harvests in Canada are up 14 percent, from 72,000 to 82,000 over the past year, and are expected to rise to 95,000 per week by mid-2005, a 25-percent increase over pre-BSE levels. The jobs that go with that increased production probably will never return to the United States.

Prior to May of 2003, cattle imports from Canada accounted for approximately 4 percent of the U.S. production capacity. A number of these animals were also a part of the U.S.-Canadian Northwest Cattle Feeder Initiative. By allowing them to increase production capacity, we threaten U.S. production and marketing.

The average number of imported Canadian cattle for all purposes, between 1970 and 2003, is 795,563 head per year. The highest level of cattle imports was 1.68 million in 2002, and the lowest was 245,000 in 1986. The Minimal Risk Region rule requires animals to be imported exclusively for slaughter. Dairy, stocker, or other livestock segments are prohibited from importing animals for breeding or other purposes.

Frankly, the Canadian border is already open. Boxed beef is coming across the border from Canada in record numbers, numbers higher than they were before BSE was discovered in Canada, creating a public policy windfall for those companies with processing facilities in Canada while punishing those in the United States. U.S. beef imports from Canada set a record in 2004, approaching 1.2 billion pounds, a 12-percent increase over 2002 levels. During 2005, beef imports from Canada are expected to total 1.2 to 1.3 billion pounds.

Increased Canadian packing capacity is expected to increase beef production to more than 3.7 billion pounds in 2005 and exceed 4 billion pounds in 2007.

The unfair public policy is best illustrated in the following example. Canadian packers can buy a cow for about $17 per hundredweight and sell the processing-grade beef for about $123. He can also buy a fed steer or heifer at about $67 per hundredweight and sell the meat for about $132.

In the United States a cow will cost a packer about $55 per hundredweight, and the beef would sell for about $125. The fed steer or heifer would cost about $85 per hundredweight, and the beef would sell for about $135.

This imbalance has led, in part, to the layoff of thousands of people in the processing industry across our Nation. Eventually it will affect the cattlemen because our markets will be less available for those who have live fat cattle.

The Harvard Center for Risk Analysis has stated there is no body of scientific evidence indicating there is any potential risk to the American consumer in allowing live Canadian cattle under the age of 30 months to enter the U.S. marketplace destined for fattening or slaughter.

I have picked up, as a result of my colleague from North Dakota mentioning the Colorado cattlemen's position—I do have a list of the requirements they are requiring. I have read down through those, and those provisions are being met in the United States, and they are being met in Canada. We have just made a call to the National Cattlemen's Association, and they have indicated to us that they support the position of opposing this resolution. So they understand that the rules and regulations that are being proposed by the U.S. Department of Agriculture do protect the American consumer. They do protect, in the long run, the future of the cattle industry.

I just wanted to call that to the attention of the Members here, and I also want to again refer to my State of Colorado. There are a lot of States that have their economies built upon beef. In Colorado, on exports in general we have about $154 million in trade. We export $97 million. Most of that is in the beef side. We have $51 million of beef that is exported. We import about $97 million. Some of it is live cattle, but a good percentage of it is breads and pastries and cakes and vegetables.

If we do not address this problem, we are going to have a profound impact, in a negative way, on the Colorado beef industry and, throughout the country.

Canada is one of our most important trading partners. Agriculture is a fundamental component of U.S. trade. If we cannot rationally restore the beef and cattle trade with our most important trading partner, I ask the question: How will we ever restore trade on a global scale?

Some 20 Members of the Senate have joined me in sending a letter to the Japanese Ambassador asking him to reduce his import restrictions on beef from the United States. If we don't—and the other countries throughout the world are watching—what we are doing here?

If we don't use good science and if we don't use good sound policy, it is going to have a prolonged impact on our trade policies throughout the world, particularly as it applies to the livestock industry.

From what I understand, USDA appears to support the policies of the World Health Trade Organization. In fact, I think it exceeds what is recommended by the World Health Organization. I think Canada has the same policies, and I think they exceed what is required by the World Health Organization. We are setting the standard for the world.

I feel comfortable in having beef for dinner. When I am asked the question, What's for dinner? I am not going to hesitate to say beef, because I think we have a quality product in this country. I think what is happening in Canada is comparable to what is happening in the United States. I think they are working hard to bring the regulations and rules into compliance with what we have here.

We received a report a week or so ago from a group of scientists who visited Canada, saying they have a robust effort in their rules and regulations, just as we have a robust effort in this country.

Again, when asked the question, What is for dinner? my answer is beef.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. CONRAD. Mr. President, let me say to my colleague, the Senator from Colorado, that in the Conrad family, when asked, What is for dinner? beef is often the answer.

But that is not the question. The question is, Are we going to keep the beef supply safe? The evidence is overwhelming that Canada is not enforcing their own regulations. Their own testing shows they have right now four cases of mad cow identified in Canada.

I suggest to my colleagues that the better part of wisdom is for us not to open this border in a premature way. The risk is too great to our people and to our industry. The Senator cites the National Cattlemen's Beef Association. I met with my representative of the National Cattlemen in my State. They urged me to proceed. They urged me to go to a vote. They urged me to try to carry the vote.

When I look at what the National Cattlemen said, here it is. They put out 11 conditions that need to be met before the border is opened, and only 3 of them have been met. I would be glad at a later point to go right through the 11 conditions they said should be met. We can go right to the eight that are clearly not met. This border should not be opened until these 11 conditions have been met.

I yield 10 minutes to my colleague Senator DORGAN.

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

Mr. DORGAN. Mr. President, we have apparently resolved what everybody is going to have for dinner. Apparently it is beef. We haven't resolved who is going to stand on the floor of the Senate this morning and support our farmers and ranchers who produce that beef. That is the question—not what we are eating for dinner. Who is going to stand for the farmers and ranchers on this issue?

It took a nanosecond to hear that we are protectionist this morning. Every thoughtful discussion turns into a thoughtless discussion in a nanosecond around here when it deals with trade, because instantly the subject of protection comes up and the word ''protectionism'' is used. God forbid that someone should be accused in this Chamber of the Senate of standing up to protect the economic interests of this country. It happens precious few times.

But let me be somebody who says, if that is the charge, I plead guilty. I want to protect our economic interests. I don't want to build walls around this country. I believe expanded trade is helpful. But I also want to stand up for the economic interest of this country when it is at stake.

Let me say one other thing, as I have been listening here. Let us stop walking hat in hand to the Japanese and asking for favors. Let us stop killing another tree to send one more letter to the Japanese. Last year, they had a $74 billion trade surplus with us. Because we had one Canadian cow found in the State of Washington with BSE, the Japanese don't want to eat American beef.

Now we have people who say somehow the Japanese will be more confident to eat American beef, if we allow Canadian cattle to come into this country—cattle from a country where investigations have shown that the feed supply has prohibited animal materials. My colleague Senator CONRAD described it. In December, the Vancouver Sun reported that officials from the Canadian Food Inspection Agency found prohibited animal materials in 141 of 70 samples. Of the feed that was tested, 58 percent was found to have had prohibited animal materials.

So somehow you are going to give the Japanese confidence by allowing Canadian cattle to come into this country on the heels of four examples of mad cow disease in Canada? I don't think so.

I know there is a lot of passion about this issue. Canada is a great big, old, wonderful country with great neighbors. They are a wonderful neighbor of ours. We share thousands of miles of common border. I am heartbroken for the Canadian ranchers. I know it must be tough for them. I wish them no ill will at all. I regret that they have found examples of mad cow disease in Canada. But they have.

Our responsibility is to stand up for the interests of American producers, American farmers, and ranchers. That is our job.

Listen. You all read the papers last summer. The President was going to go to Canada. The speculation last summer was that in discussions with Canada there would be a promise that border would be opened after the election. We all read that—not once, several times. Sure enough, the election comes and goes, and the U.S. Department of Agriculture decides that the border has to be opened. Canada meets every test.

It turns out they don't meet every test. It turns out this is not about sound science. This is about let us pretend. Frankly, some say let us pretend that everything is fine; that there is rigorous testing in Canada; that the testing meets all the requirements; that there is no difficulty, no problems; and, if we allow under the conditions set by the United States Department of Agriculture the import of beef and live animals from Canada, somehow things will turn out fine for us. But, of course, that is not the case. We know that is not the case.

My colleague Senator CONRAD offers this Chamber this morning an opportunity to cast a vote on this issue. I know we have already heard about protectionism, and we have heard this is tough on packing companies, which is another part of this, obviously. But the question for the Congress is, Will it stand up for the interests of American producers? Will it be something that will make it harder to get into international export markets once again with our beef?

I think that it is time—long past the time—for this Congress to cast a vote in support of America's interests here, in support of our country's interests, and our producers' interests.

I can think of dozens of debates on the floor of the Senate where in every circumstance where you talk about the interests of American producers, somehow foreign policy is overwhelming. All of this mishmash, this soft-headed nonsense, of course, comes from the State Department, and from all those in this Chamber who stand up on cue and say, Yes, sir, yes, sir, we certainly don't want to be accused of protectionism when it comes to economic interests. Let us find a high board, and dive right off that old high board.

On this issue, Senator CONRAD says he is not ready to dive, nor am I, nor I think are many in this Chamber ready to simply decide the economic interests of this country, the interests of farmers and ranchers, are to be sacrificed in this circumstance.

A few days before Christmas of 2003, the one instance of BSE, or mad cow disease, was discovered in this country. It wasn't an American cow; it was a Canadian cow sent to this country from Canada. The consequences of that are dramatic, and they have been significant. But, my colleague, as I listened to his opening statement today, described consequences far more severe than that in Europe.

We ought to move with some caution here and with some concern. We ought to move reasonably slowly to make sure we know what we are doing. But that has not been the case with USDA. And, in part, it is because the packing companies are putting on the pressure. It is partly, I think, because the President went to Canada last summer and made some representations. In part, it is because they say they are meeting all these tests. But my colleague Senator CONRAD has taken the mask off all of that.

How does one describe a response to what my colleague Senator CONRAD has said, my colleague Senator JOHNSON has said, and what I have said—that the tests in Canada as reported by the Canadian news and by the Canadian Food Inspection Agency found prohibited animal materials in 58 percent of the cattle feed tested?

I have not heard one person respond to that. Is there a response? If so, I would be happy to yield to someone to offer me a response. Is there anyone here who wants to respond to the proposition that 58 percent of the feed that has been tested, as reported in Canada, had animal parts in it? Is there no response? Doesn't it matter? Don't we care? Or, is this the case where we should ignore the evidence and decide that we came to the Chamber with our own preconceived conditions, opinions, and our own desire to support the President and USDA, and we have to vote that way?

Although I am not going to be on the floor for the entire debate, I hope at some point someone might respond to that proposition.

Evidence is a pretty difficult thing sometimes. The evidence here is compelling and clear. We have people saying that Canada meets all the tests, and then we have the evidence. They don't.

When my colleague Senator BYRD one day was speaking on the floor, he said that the caterpillar, the squirrel, and the eagle, seeing the Earth from exactly the same spot, saw it differently. The caterpillar climbs on a clump of grass, and says, I can see the world. And on the exact same spot, the squirrel climbs the tree and says, I see the world. And at exactly the same spot, the eagle flies overhead, and says, I see the world. All three look at the same spot and see different things. It happens.

But you can't look at the spot Senator CONRAD asks you to look at today and see something different. You can't. The demonstration of that is there is no answer to the proposition that the feed testing in Canada is woefully inadequate. And if you believe that—and apparently you do, because nobody is contesting that—then opening that border at this point, in my judgment, compromises the interests of farmers and ranchers in this country.

Why on Earth would we decide to do that? In whose interest are we here serving? Why would we decide to put someone else's interest first?

There is nothing to be ashamed of, in my judgment, for standing up for this country's interest for a change. Perhaps once, just once today, on this vote we will see evidence of an interest of doing that here in the Senate.

Let me conclude one more time by saying this is not about ''protectionism.'' That is the kind of nonsense thrown around in every trade debate. But it is about protecting America's economic interests. That is what we come to the Senate to do. My hope is

when we finally cast this vote, we will have done so this morning.

I yield the floor.

Mr. CHAMBLISS. I yield 10 minutes to the distinguished Senator from Missouri, Mr. BOND.

Mr. BOND. Mr. President, I thank the distinguished chairman of the Agriculture Committee for allowing me this time.

I rise today as cochairman of the beef caucus to speak against Senate Joint Resolution 4, which seeks to condemn the U.S. Department of Agriculture plan to reopen the Canadian border to live cattle.

I concur with the sentiments already expressed by the chairman of the Agriculture Committee and the distinguished agriculturalist from Kansas, Senator ROBERTS. I also learned a great deal from the professional testimony of our Senator, Dr. Allard, from Colorado, about the safety and about the science that goes into the decision made by the U.S. Department of Agriculture.

I note also that this past week, a group of our scientists who visited Canada said their system of protecting the food supply and the beef was robust and certainly could be counted on. As a member of the agriculture posse, I have heard Secretary Johanns, the Secretary of Agriculture, describe the steps they were taking to ensure our beef supply is protected.

We just heard a defense of protectionism. Let me define what protectionism is. Protectionism is, in my view, the use of scare tactics, the use of unsound scientific information, in an attempt to protect our markets. In this case, I believe sound science dictates it is time to open the border. Were it not so, I would not be rising today in support of the Department of Agriculture.

The fact remains, as Senator ALLARD has pointed out, not only is this not based on sound science, the impact of the beef ban has been to create a feeding and slaughter operation in Canada, which is moving the production facilities and jobs out of the United States and into Canada, potentially putting a very harmful impact on our ability to raise, slaughter, and produce the beef we eat in the United States. Yes, beef is what was for dinner last night. Tonight it will be my dinner, and it will continue to be.

Every Member of this body and our constituents back home expect the U.S. Government to work to ensure we have the safest food supply possible. That is why we hire scientists. That is why we hire veterinarians. That is why we devote efforts to make sure it is safe. Unfortunately, all too often, the United States takes the abundance and safety of our food supply for granted. When we are faced with challenges to these expectations, like reports of BSE or mad cow disease in our cattle or our immediate neighbor's, the floodgates of demagoguery from so-called consumer advocates are opened, every mother is frightened into believing she may be jeopardizing her family at the next meal she serves, and markets react.

Statistics and science say the likelihood of you, me, or our children at home eating a BSE-tainted burger or steak not cooked hot enough to kill the pathogen is, on an order of magnitude, less of a threat than many of the other risks we accept in our everyday lives, such as driving our children to school and back.

The alarmism and subsequent waves of fear of BSE threats are seen as opportunities by many of our trading partners who seek to find any excuse to erect trade barriers to our products. These foreign buyers ignore the science, statistics, and history. The U.S. position in the world market is based on the very sound principle that good science should and must prevail. Whether our trade representatives are negotiating exports of genetically enhanced rice or soybeans, meat produced using the most advanced commercial technologies, or as we negotiate reopening of the Japanese beef markets to our own production, sound science is the best negotiating tool we have against the Luddites and naysayers in our potential foreign markets.

We cannot fall prey to the wonderful exuberance of populism in protecting our markets with false or pseudo-science-based claims while expecting the world to accept the products of U.S. farmers who feed the world largely due to our use of the latest technologies.

The Agriculture Department's amended final rule on resumption of beef and live cattle trade with Canada was developed based on the best science at hand and with broad input from the cattle industry. The amended rule restricts imports of beef animals older than 30 months. Also, Canada, as I said earlier, has implemented appropriate BSE prevention standards similar to our stringent domestic firewalls. As I said earlier, this has been confirmed by our scientists who have visited and inspected the operations in Canada. This includes the banning of all ruminant to ruminant feed and effective enforcement. This alone will drastically reduce further contamination in the Canadian beef herds. Sound science should prevail here and in all of our trade negotiations.

I would be remiss if I did not take the opportunity to encourage the USDA, our trade representatives in Japan, to apply sound science and to continue the move to reopening markets in Japan to our beef exports. Recently, I joined with several of my colleagues who also spoke today sending a letter to the Ambassador to Japan saying we would not stand for pseudoscience-based protectionism preventing the export of U.S. beef to Japan.

This past week, I had the opportunity to meet with representatives of the Japanese Diet, the legislative body of Japan. I told them of our interest in providing beef to the consumers of Japan. They assured me that American beef is a very high priority for those Japanese consumers. We said, OK, they want it, we have shown it is going to be safe, it is time to open your markets and provide a significant export opportunity which will serve and reward the U.S. cattle producers.

I hope we will reject this resolution and allow sound science to rule.

(The remarks of Mr. BOND pertaining to the introduction of S. 503 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. CONRAD. I yield 5 minutes to the Senator from South Dakota.

Mr. THUNE. I thank the Senator from North Dakota for yielding the time.

I join today with him and others in the Senate in support of this resolution. I hoped it would not come to this, that we could achieve a result, an outcome short of having to have this debate in the Senate. However, I have to say I wholeheartedly agree with the premise of this resolution; that is, that the rule in question is wrong. It is wrong timing.

Agriculture is the No. 1 industry in South Dakota. The cattle industry, the livestock industry, is the biggest component of that. This industry has an enormous impact on the economy, the gross domestic product in my State. In fact, as noted earlier today by another speaker, we have probably five or six times the number of cattle than we have people in South Dakota.

Growing up on the Plains of western South Dakota, I have witnessed firsthand the incredible work ethic of our livestock producers, the willingness to go out during calving season and fight the elements and conditions, and to work to nurture the herds and bring them to the marketplace, to go through the weather we have to deal with in South Dakota on an ongoing yearly basis, and to haul water and to haul feed to those herds, to get them to where they can take them to the marketplace.

As a member of the House Ag Committee when we were debating the 2002 farm bill, I advocated and fought on behalf of country-of-origin labeling because I believe it is important that American consumers know where their products are coming from. It was included in the 2002 farm bill.

More recently, in the last year or so, this body and the House adopted legislation that would delay the implementation of country-of-origin labeling, which is unfortunate because I think it would alter and change the dimensions of the debate we are having here today.

So I come here today to speak in support of this resolution, and I do so knowing full well that as a three-term Member of the House, I come here with a record supporting free trade. I supported trade promotion authority for both President Clinton and President Bush because I believe our leaders in this country need to have the authority to go out there and make the best

possible deals for our agricultural industry and other industries in our country, always reserving the right to vote against those trade agreements if I do not believe they are in the best interests of American agriculture.

I do not harbor any ill will toward Canada. Canada has been an important trading partner in the past and will continue to be in the future. I am hopeful that when this is all said and done we will be able to restore that relationship. But, frankly, this issue is not about protectionism. It is about safety. It is about science. It is about making sure that America's consumers have a safe supply of beef products in this country, and also that those that we do business with overseas, our trading partners, are fully confident in the exports we send their way.

I believe exports are important to America. They are important to agriculture. In this country today, one in every three rows of corn goes to the export markets. We would like to see more of it going into ethanol. I hope it will. But the reality is, we depend heavily upon export markets for the success and prosperity of American agriculture.

So I supported increasing trade opportunities for our producers. But the fact is, we have not been able, at this point, I believe, to provide the level of confidence and assurance to the American consumer and to producers in this country that, in fact, the Canadians are taking the steps necessary to ensure that their herds are 100 percent in compliance with the ruminant feed ban.

My first official act, after being sworn in as a Senator, was to ask the President to delay the opening of the border beyond March 7. I have insisted that decision to open the border be based, first, on two prerequisites: sound science and a return of our foreign cattle export markets—namely, the Pacific rim. This has not been answered.

USDA's own risk assessment in 2002 states the Canadian feed mills were not—were not—100 percent complying with the feed ban. The borders should not be open until that allegation is fully investigated and it is confirmed that the ban is being properly enforced. The most recent assessment completed by the USDA team this year concluded that the feed ban is reducing the risk of transmission of BSE in the Canadian cattle population. That is not 100 percent. Cattle imports from Canada should not be accepted until we can be sure feed mills are 100 percent compliant. American consumers need to be assured the meat they are buying at local supermarkets is safe before the border opens, not after, and American cattle producers need to be assured that live cattle coming from Canada are BSE free.

As I said earlier, another important aspect is regaining the Asian cattle export market. If the trade with these countries is not resumed and the border is opened, South Dakota ranchers will be competing against Canadian cattle without the benefit of exporting our cattle to other countries. Since being sworn in as Senator, I have been in ongoing discussions with the USDA and Secretary Johanns trying to find a way to resolve this border issue. I cosponsored legislation to modify the rule to allow only beef products from animals under 30 months of age. In response to that, the USDA then modified their rule to do just that. I appreciate the Secretary's and the administration's work on this matter.

The PRESIDING OFFICER. The Senator from South Dakota has spoken for 5 minutes.

Mr. THUNE. Mr. President, I have to yield, but I simply close by saying, I urge my colleagues to support this resolution to send a strong message to our producers and consumers that we are going to support making sure that the feed ban is being complied with, and we are going to work hard to make sure our export markets are open before this rule is implemented.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I yield to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank the Senator from Georgia for yielding some time to me so I can respond to a number of issues that have been brought up.

First of all, I would like to say that the information we have on the food contents is older information. The newest information we have is from a group of scientists that went to Canada to check on their rules and regulations, on their enforcement. These scientists reported back to us on about February 22 of this year, saying that the rules and regulations are being enforced robustly in Canada. That includes the ruminant on ruminant food regulation where you prevent the consumption of ruminant byproducts by other ruminants. I have confidence in these trained scientists who know what they are looking for and have given us the most recent report on what is happening as far as the food on food regulation.

I would also like to go over some of the positions by the Colorado Cattlemen Association as well as the National Beef Association. They support a minimal-risk region classification, and they support it on the following conditions:

No beef or beef products will be imported into the U.S. from cattle over 30 months of age. That is in place.

All imported feeder cattle must be harvested previous to 30 months of age, and the verification processes must be implemented to track and validate harvest age and location. They are doing that with earmarkings as well as brands.

All cattle direct to harvest must be 30 months of age or younger. That is being done. It is a provision in the rules and regulations.

Minimal-risk regions must meet all processing techniques and regulations relating to BSE as set out by the U.S. That is what those scientists were reporting to us as of the 22nd of February.

Adherence and implementation of a U.S. equivalent ruminant to ruminant feed ban. That is a requirement. That is what the scientists report back, that they are complying with the rules and regulations, and we should not have a concern about it.

And then:

The Colorado Cattlemen's Association is committed to normalizing global trade based on [good] science that protects the health of the beef industry.

And they express that:

Once our concerns have been adequately addressed, CCA will reconsider our position on opening the Canadian border.

The Colorado Cattlemen Association currently supports the minimal-risk region rules that have been put out by the Ag, and the Colorado Farm Bureau currently supports the Canadian reopening. The Colorado Livestock Association supports the reopening, and the National Cattlemen's Association, which is headquartered in Colorado, supports the Department of Agriculture's provision on minimal risk.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, let me make a couple quick points. It is true we had an investigation group go to Canada. Here is what they found. They went to seven feed mill operations in Canada. In six of the seven, they found one or more unsatisfactory task ratings. In two of the seven, they found serious failures to ensure prohibited material did not enter the food chain. More seriously, the assessment found that only 3 percent of Canada's on-farm feed manufacturers have been inspected at least once over the last 3 years.

Now we are talking about 25,000 on-farm feed operations. These mills represent one-half of Canadian livestock feed production. Only 3 percent have been investigated, were checked in the last 3 years.

My friends, we are talking about risk. What are the consequences of failure? In England, 146 people died. In England, they had to slaughter 5 million head.

In Europe, these were the headlines, week after week: ''French Farmers in Grip of BSE Panic.'' ''World of Europe Suffering for UK Errors.'' ''Mad Cow Disease Kills 500 Dairy Cattle Every Week.'' ''Slaughter to Prevent Disease on Continent.''

There were 6 million heads slaughtered. We are talking about substantial risk to our industry, to our consumers. Let's be cautious. Let's not open the border before we are confident Canada is actually enforcing the regulations

they have on their books. The evidence is very clear that they are not.

Mr. President, I yield Senator THOMAS 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. THOMAS. Mr. President, we have had a good discussion. I am glad we have. There are a number of parts to it, of course. We have talked a lot about the safety issue, which is key, and to be confident in the things that we have asked Canada to do. We had a hearing with the Secretary some time back. He had his scientists there with him, and they were not certain they had done all the things that they might do. But I think the key is the matter of opening the markets for us.

Our markets for beef have grown in the last number of years. It has been one of the most important things that we have had to export. Most of that growth has been in the Pacific Rim—Asia, Japan, Korea. Of course, now that is closed. Regardless of what you say about how well the Canadians have done, that market is still closed, and it is closed because of Canadian activity or lack of it. That is really the key that we have to look forward to.

I am certainly for trade. As a matter of fact, I am chairman of the Subcommittee on Trade of the Finance Committee. We need to do that. But I am reluctant to see us open this one until we have some arrangement to open Canada and Korea.

You say: Well, this is unfair to Canada. Nevertheless, that is where the problems all came from. That is where the cows came from, the mad cow disease, not the U.S. They came from Canada, and the difficulty has arisen there.

So I guess I just simply want to emphasize that we can talk all we want to, as my friend from Colorado has, about what has been done there. The fact is, we still haven't got our market back. We had good exports. We don't have them now. I am not as concerned about the processors being able to move up to Canada. The cows are here, actually, and that is where they are going to be. So I won't take more time because I know there are many others who need and want to talk.

I hope we can keep in mind that all we are asking is that we have more of an opportunity to deal with opening the markets in Japan, opening the markets in Korea, before we open the market in Canada.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BURNS. Mr. President, I rise today in support of this resolution. I wish it didn't have to come to this. Maybe it is just an exercise, in light of a Federal judge ruling yesterday, when some of the stockmen in my State have chosen to settle this in court rather than what they can get through the policy of Congress.

I reluctantly rise in support of this because I wish that USDA would have listened to those of us who have been saying for two months that this rule has some problems. I want to say up front that I appreciate the new Secretary of Agriculture Johanns's work on this issue. We met with him. He came down and talked to us. He got thrown in on this with a cold hand, and I know he has been working tirelessly to try to respond to everybody's concerns. Then it comes down to the point where you come to the fork in the road that everybody's concerns cannot be fully addressed. I thank him for doing the right thing and restricting the eligible beef cattle to under 30 months old. I feel strongly about that. I appreciate his action. I think when we said we are not going to take products or cattle over 30 months into this country, that was a prudent move.

But there are still lingering concerns. Whenever this whole thing broke out in 2003, I think I was the only one who stood up and said: They have a feed problem because, No. 1, it started with an Angus cow in Alberta, and then the second cow was the Holstein cow that we found in the State of Washington. Then of the two after that, you had one Angus cow, two dairy cows, and one Charolais cow. So we know we don't have a genetic problem.

In this ban, we have to be very careful of another unintended consequence because there is a great exchange of breeding cattle and seed stock production that crosses that border both ways. So we have to have some way to deal with that. The Department of Agriculture is addressing that situation, too. But it hadn't got there yet.

I said from the get-go, it is the feed. And every number that we see coming out of Canada, and even the report of our USDA team does not draw the conclusion that Canada has not really gotten serious about checking feed, livestock, or cattle feed, in Alberta, Saskatchewan, or across the whole country as far as that goes.

That is where we all have a little bit of a problem. Consumer confidence in beef has never been as good as it is right now. It is because we have taken certain steps to make sure that the safety of the food is utmost because losing consumer confidence would be much more costly than anything that we could do.

So, yes, I eat beef. Obviously, I have eaten quite a lot of it. I have never missed a meal, nor do I plan to.

So when we talk about those things that are based on science—and my friend from Colorado, who has points in this debate, is right on target—we have to face the reality of what is best for the cowman. Because in my State, unlike Colorado, we don't have a predominance of processors. We don't even have a lot of feed cattle, but we have cow-calf producers and we deal in older cattle, especially at this time of the year. And, of course, we sell yearlings and feeder calves. Some of those calves will go to Canada under Canada's new rules. That was a positive step.

But if we back off and take a look at this and let the facts come to the top and we consider those facts, we will make better decisions not only for our cattle people but also the consumers of this country. Even when we got the report of the USDA's team back from Canada, we were on break and had little time to look at that report and make a decision: Are they doing what they are supposed to do in order to protect their own livestock people? That is what Canada did. They let their own people down—when you don't enforce the rules of the 1997 ban of certain ingredients in cattle feed.

So what we are saying right now, is that this action furthers the protection of two of the most important economies that we have in this country, and that is our consuming public and our cow-calf producers.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Colorado.

Mr. ALLARD. Mr. President, since the floor manager is not here, I yield myself 5 minutes to respond further.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 5 minutes.

Mr. ALLARD. Mr. President, I want to emphasize again how very important it is that we proceed on this matter using good scientific evidence. I appreciate the statement that was made by the Senator from Montana. He is right in many regards that we need to be sure that we use good science. I feel good about the enforcement of the rules and regulations based on the visit by scientists who just reported back in February. It is the most recent report that we have on the enforcement of the rules and regulations in Canada. They are very competent scientists, very dedicated scientists. And what they reported back to us is valid.

From a trade standpoint, we need to do something for our cattlemen. I believe strongly that what we need to do for the cattleman is get the borders opened because we are importing Canadian beef today. It is boxed beef. The reason that is coming in is because our plants can't economically make it. They are having to pay high prices for beef. They only have a limited supply of beef, and so they are not up to capacity. In the meantime, the processing plants, the beef that they are getting is lower cost beef. And then they are putting that on the world market. They are importing that into the United States.

The result is that we see an expansion of the beef industry in Canada. They have got plans to build more processing plants. They are in the process right now of building more processing plants.

That means there are going to be more people raising cattle in Canada. That means if our processors here don't make it like the one in Colorado, we

lose our local markets. We lose an opportunity for our cattlemen to readily get their beef to market. That costs in shrinkage and extra transportation costs, particularly when we look at the cost of gasoline and diesel fuel. So this is a problem that needs to be resolved quickly.

We need to move forward with the guidelines that were laid out. By the way, the principles laid out in the guidelines have been used by the cattle industry in this country to control livestock disease, which also affects humans. The principles are laid out here, things like brucellosis. We know in cattle country what that is all about. We have States classified as brucellosis-free, and there are those having problems with that. The movement of cattle back and forth begins with addressing brucellosis in those States. Using those principles, we have been able to reduce the incidence of brucellosis in this country. It works. They are the same principles we are using on BSE and asking for Canada and the world organizations to apply, where we take minimal-risk countries, such as Canada and the United States, and apply those provisions in a good, scientific way.

That is only part of it. The other part is that during the process you don't increase the risk by handling the processes improperly. No. 1, you don't want to circulate the food and feed it back to the cows, the byproducts. That is a policy that has been adopted here and in Canada, and it is something we have learned since the outbreak in the European Community.

So, again, I also compliment Secretary of Agriculture Johanns for his efforts in trying to protect the beef industry and to use good science. He comes from Nebraska. That is a big beef State, as are many of the other States. But the important thing is to recognize that free trade is a benefit of agriculture. It has benefited particularly the beef industry. We want to make sure we get the border open, and we need to use good science in opening it.

I yield the floor.

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

Mr. CONRAD. Mr. President, I yield 5 minutes to the Senator from Colorado, Mr. SALAZAR.

Mr. SALAZAR. Mr. President, I rise in support of the bipartisan resolution to disapprove the opening of the Canadian border. My position on this is clear. Until we resolve comprehensively the underlying issues comprehensively in the interest of health and safety in support of our family farms and ranchers, we should keep the border closed.

Today, I speak on behalf of those men and women who are on farms and ranches across America, whose livelihood depends on being able to have a quality livestock industry in place in their States. I join organizations such as the Colorado Cattlemen's Association which said it is not now time for us to lift the ban on Canadian imports.

I have spoken with Secretary Johanns about this issue. I have told him that I am for the lifting of the Canadian ban at the appropriate time. For me, that means we are not yet ready to do it because there are too many questions that still have to be answered prior to getting to that decision.

Many of the questions we have asked Secretary Johanns and the Department of Agriculture are questions to which we have not received any answers at this point in time: How many inspectors will we have at the border as the million, more or less, cattle from Canada start coming across the Canadian border and flooding the markets in our Nation? How many cattle will they actually check as they come across the border? How will they determine which of those cattle are 30 months or less of age?

I have been around cattle for most of my life, and I can tell you it is difficult to tell which cows or cattle are more than 30 months of age, or more than 3 or 3½ years. My father might have been able to tell us that. When you are talking about that kind of prediction, we don't have an answer from the Department of Agriculture.

How will the entire BSE risk mitigation system be documented? What are the segregating procedures for the processing of cattle in Canada at this point? How are we integrating the efforts in trying to deal with the BSE issue and opening up markets in South Korea and Japan with the efforts that we are dealing with now in Canada? Those are very serious questions that will impact the American farmer and rancher for a long time to come.

It seems to me it is a very reasonable request that many of us have made to Secretary Johanns—that there ought to be a delay in the opening of the Canadian border until we can have faith that these questions that have been appropriately asked by the ranchers and farmers of America are answered.

With that, I urge my colleagues to join in approval of the resolution. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I yield 5 minutes to the Senator from Idaho, Mr. CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, it is not often that persons speaking on the opposing side of the issue on the floor yield time to someone who might disagree with them. So I am thankful to the chairman of the Agriculture Committee, Senator CHAMBLISS, for being so accommodating.

Yesterday, a judge in Montana said there remains a question of concern as it relates to the science that we hope is well underway in Canada. You have certainly heard my colleagues from Montana and others argue that is a legitimate concern. Senator CONRAD has made that point time and time again. It is fair for us to err on the side of science. That is where we ought to be. That is where our industry is. That is where we ought to demand of the Canadian industry.

Our industry people have been north of the border and they have seen the tremendous progress that has been made. Our Secretary of Agriculture has recognized that progress and, in part, premised his rule on that basis. At the same time, I am one of those who remains skeptical. I think we have to ensure that we cannot take another hit in our agricultural economy. In 2003, May, Canada, boom. And then in December, along came the cow in the lower 48 that stole Christmas. She wasn't green, she was black and white and she pulled the rug out from under the industry just for a moment in time.

Our Secretary of Agriculture effectively stepped in and talked our industry and the consuming public into stability again. Why? Because the cow had come from Canada. We have had our act together in the lower 48 for a good long while, prohibiting the incorporation of animal protein into the feed supply. We have played by the rules, and they have been sustainable, scientific rules, which has assured the American consumer safe, high-quality beef.

But when Canada sneezed and we got the cold, our trading partners backed away. In that backing away, we lost a billion-dollar Japanese market. I have been one saying to my industry in Idaho that I am going to work to force the Canadians to get their act together, while at the same time we are going to assure that we open the Japanese market. Our President has put pressure openly and personally on the Japanese, as has our Vice President and Secretary of State. It is unique and unusual, but it demonstrates the importance of the livestock and cattle industry to this administration and to our country for them to say to the Japanese: Get your act together. We are clean; you know it; you see our science. We are doing the right thing.

Yet the Japanese push back. I cannot in good conscience open a border that brings greater numbers to the lower 48 when the science remains questionable and we have not resumed the Pacific rim markets that are extremely valuable to the livestock industry.

The new Secretary of Agriculture, Secretary Johanns, has been to the Hill. We have talked with him. He is doing the right things. We sent a letter to him in opposition. He backed away for a time. He is pushing the science, and he will continue to do so. But I do believe that a March 7 implementation is premature.

I trust that the judge looking at the evidence in Montana yesterday has the same concerns that are being reflected by the Senator from North Dakota and certainly by this Senator and many of us firsthand.

Actions do produce reactions. There are consequences to our action. The Senator from Colorado has been concerned about the displacement of the packing industry and what it will do, and it is having an impact. I am tremendously concerned that if we do not continue this aggressive pressure, we could lose capacity in the lower 48 as the Canadian industry begins to extend its ability into packing of their livestock products.

Today, in good conscience, I cannot nor will I oppose S.J. Res. 4. I believe we are sending an extremely valuable message to all of the markets involved, including the Canadians. The Canadians do not get it. They see NAFTA as a one-way road. We have been fighting them for 4 years on timber. They do not get it.

The PRESIDING OFFICER. The Senator has used the 5 minutes yielded to him.

Mr. CONRAD. I yield an additional minute.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Idaho is recognized for an additional minute.

Mr. CRAIG. Mr. President, I appreciate that.

The Canadians do not get it in timber and are still rope-a-doping us. The Senator from Montana is in the Chamber. He and I have partnered in trying to get them to get their act together on timber. They do not play the game well when it is one-way traffic. They are doing the same thing in potatoes, and my potato farmers in Idaho are understanding the consequence of losing markets.

Those are the real problems. To our Canadian friends: Listen up. Get your act together in Canada. Play by the rules in NAFTA and resume and remain the good friends and trading partners we have always been. But we will not dislocate economies in the lower 48 for the benefit of economic gain in Canada. That is not equality, and that is not the fair trade that we are looking at.

Let's make sure the science is right. We cannot allow another hit on the livestock industry of the lower 48.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. I yield 5 minutes to the Senator from Montana. If he asks for additional time, I will be happy to extend it to him.

The PRESIDING OFFICER. The Senator from Montana is recognized for 5 minutes.

Mr. BAUCUS. Mr. President, I thank my friend from North Dakota. This is obviously an extremely important matter because it affects the consumption of one of the most valuable staples in the American diet, and that is meat. It also affects the livelihood of so many Americans, the cattle ranchers, and other producers of meat and red meat products in the United States.

Agriculture is our No. 1 industry in Montana, so this is an extremely important matter. We also very much want people in the United States and around the world to be confident that the beef produced in the United States is free of BSE and is the best beef in the world.

Now is not the time to open the border to receive Canadian beef down to the United States. There may be a time—I hope there is a time—in the not too distant future when we can do that. I think the North American market makes sense, where beef can be eventually traded freely between the United States and Canada. After all, we are so close in so many ways. We have the same heritage, the same language. The Canadians and Americans are very similar in their outlook on life, with same values, so forth.

But we in the United States are a little concerned—many of us are—with the direction the U.S. Department of Agriculture has taken on this matter; that is, the Department has been quite secretive, that the Department, in announcing its first rule to open the border for Canadian beef, did not tell us something they knew at that time. What is that? They knew at that time that BSE was just discovered in Canada.

It turned out even after USDA made their announcement of the rule, another case of BSE was found in Canada. There have been several cases of BSE found in Canada. The one case of BSE found in the United States was a Canadian cow, recently imported from Canada. So we are rightfully a little concerned. We are concerned because we want to make sure that the beef produced in both the United States and Canada meets the highest standards.

We have pretty good standards in the United States now to protect against BSE. Probably the best evidence is, to my knowledge, no BSE has been reported south of the border in Native American cattle. I think there are four cases involving Canadian cattle.

The Canadians are clearly concerned about their production; they are clearly concerned about their consumers. The Canadian people want the very best beef. They think their beef is the best beef in the world, just like we think our beef is the best beef in the world. That is fine. Now is not the time to open the border. We have too many questions that are not yet answered.

One is the new science, new research is going on with BSE which USDA is not incorporating at all in its final rule; that is, the rule that is the subject of this resolution. Even with that, we know that our beef is safe. There is no BSE found in the United States, but it probably makes sense for that new research to be incorporated in the final rule so we are all better assured we have the best beef that we want our consumers to have.

This is also important with respect to one of our major trading partners, and that is Japan. About 10 percent of American beef production is exported overseas. About 37 percent of those exports generally go to Japan. But Japan just said, no, and they closed their borders to American beef. It is because of that Canadian cow which had BSE that was found in the United States.

Many times many of us have been over to Japan talking with the Japanese, saying our beef is safe; there is no BSE reported in United States cows. Because BSE has been discovered in Japan in the last several years, the Japanese are very sensitive to the dangers, the hideous dangers of BSE.

I ask the USDA to withdraw this rule. I ask the USDA to make the best use of the new research that is available. There is an evidentiary hearing coming up soon because a judge in Montana ruled the border should be closed. With regard to that investigative hearing the judge has ordered, now is the time to take a long hard look at this issue and to be transparent, to open up to the public, open up to cattle producers, open up to beef packers who have been denied thus far the application of their comments as the Department makes its final determination.

Now is just not the time. I hope there will be a later time. Now is not it.

I thank the Chair for his indulgence.

Ms. CANTWELL. Mr. President, I am voting in favor of S.J. Res. 4, which invokes the Congressional Review Act to disapprove of the U.S. Department of Agriculture's minimal risk rule. I wanted to explain to my colleagues and my constituents my reason for doing so.

I understand that the use of the Congressional Review Act is rare. Congress has successfully used it only once in 2001, and its use should not be undertaken lightly. The Congressional Review Act permitting these rule disapproval resolutions became law in 1996. Although I understand from floor debate today the President intends to veto this resolution if it reaches his desk, if the Senator from North Dakota, Mr. CONRAD, were successful, the result of his actions would be to overturn the minimal risk rule and prohibit USDA from issuing another similar rule unless Congress authorizes the agency to act.

I believe adopting this rule at this time is not the right action for our Nation's consumers and our country's beef industry. As Secretary Johanns stated during his confirmation hearing, reestablishing trade to Japan and other countries is our No. 1 priority. This goal will only be achieved when we prove that we have implemented and enforced dependable BSE firewalls.

Though Canada may have taken action to eliminate some loopholes in its feed ban, and is considering additional rules to ban specialized risk materials or SRMs from animal feed, we should not open our borders until these additional firewalls are in place. And we should be doing more to ensure that our feed is not contaminated by similar loopholes in the United States.

Existing loopholes in the 1997 ruminant-to-ruminant feed ban continue to

pose a risk that ruminant materials may find their way into cattle feed.

Although the U.S. Food and Drug Administration promised to close these loopholes and stated that it had reached a preliminary conclusion last July to remove SRM from all animal feed, the agency has failed to act.

Therefore, to address this issue, I have introduced legislation entitled the Animal Feed Protection Act of 2005, S.73, which would ban SRMs from being used in any animal feed. This would eliminate the possibility that ruminant materials are knowingly or accidentally fed to cattle.

Banning SRMs from all animal feed is an important step we can take to fully ensure the safety of ruminant feed, and I hope that the Senate's vote today will encourage our Government and the Canadian Government to act more swiftly on this issue.

Some will argue that I should be convinced by the report APHIS released at the end of February stating that Canada's feed ban compliance is good. I am not convinced.

On January 24, 2005, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service, APHIS, sent a team of technical experts to Canada to assess Canada's current feed ban and feed inspection program. The APHIS investigation was initiated in response to Canada's latest case of bovine spongiform encephalopathy, BSE, which came just days after the USDA published its ''Minimal Risk Rule'' in the Federal Register on January 4, 2005.

The purpose of this investigation was to determine whether the control measures put in place by the Canadian Government are achieving compliance with regard to these regulations. This was a serious investigation. Canada's latest BSE case, reported on January 11, 2005, was particularly alarming because it was discovered in a cow under 7 years of age and was thus born after implementation of the 1997 ruminant-to-ruminant feed ban.

On January 12, 2005, I sent a letter to Secretary Veneman and then-Governor Johanns, requesting that the audit being conducted by APHIS inspectors be given time for a full and fair analysis. The final APHIS report of last week largely repeats information USDA released as part of its risk assessment supporting the minimal risk rule in January. This Senator asked for a full look, if 2 weeks of Canadian inspections yielded compelling evidence that the Canadian feed ban was being fully enforced, this report misses the mark.

I strongly believe that all consumers deserve reassurance that Canadian rendering facilities, feed mills, and ranchers are in compliance with Canada's feed regulations. As you know, the ruminant feed ban has been determined to be arguably the most important BSE risk mitigation measure to protect animal health.

The APHIS report states that ''Canada has a robust inspection program, that overall compliance with the feed ban is good and that the feed ban is reducing the risk of transmission of bovine spongiform encephalopathy in the Canadian cattle population.''

It is not clear what ''good'' compliance means. We must provide our trading partners, such as Japan and South Korea, stronger assurances than those provided in this APHIS report.

We must provide them proof that we have done everything possible to control and eradicate this deadly disease as we work to reestablish the trust of their consumers and access to their markets.

It is very important that USDA systematically evaluate all possible risks before reopening the border to Canadian cattle. I do not believe that USDA has completed this level of evaluation.

Therefore, I will be asking the National Academy of Sciences to review the APHIS findings. They should assess whether every aspect critical to evaluating feed regulations and compliance has been addressed in this report or if additional analyses and inspections are needed.

The American public must be assured that Canadian cattle will not increase the risk of BSE in the U.S. Until the American public has been assured, beyond a shadow of doubt, that the Canadians are in full compliance with feed regulations it is prudent that we delay moving forward on reopening the border until this assurance has been made.

The question of what will be best for the U.S. beef industry with respect to reopening the border to Canada is complex. And deciding how best to proceed is not an easy decision to make or an easy step to take.

Segments of the U.S. beef industry are clearly divided on this issue and not in agreement regarding what is best for the future of the U.S. beef industry. This is due in most part because this rule has affected industry segments in vastly different ways.

Although some regions of the U.S. have been hit harder than others, I know we all agree that as a nation, reestablishing the export markets and international market share that the U.S. beef industry once held, is our No. 1 priority. With that common goal in mind, we must use basic common sense and delay going forward with the implementation of this rule at this time.

Therefore, in the interest of reestablishing the trust of our trading partners and preserving the confidence of the American people, I will be voting in favor of this resolution and would urge my colleagues to do the same.

Mr. HARKIN. Mr. President, I support the resolution of the Senator from North Dakota disapproving the U.S. Department of Agriculture's minimal risk rule allowing expanded trade in cattle and beef products from Canada. I take this opportunity to explain my reasons for doing so.

It is critical we restore beef and cattle trade with our trading partners, but we must do it right. Unfortunately, USDA's rule is flawed in several respects that need to be addressed. To the credit of our new Secretary of Agriculture, he swiftly recognized at least one of these significant shortcomings, and delayed USDA's proposal to allow shipment of Canadian beef from cattle over 30 months of age into the United States. USDA's ill-considered approach would have resulted in significant economic hardships for many U.S. beef packers, particularly those that slaughter culled dairy cows as their primary business. Secretary Johanns recognized this, and I commend him for his quick response.

Further recognizing the shortcomings of USDA's rule, the U.S. District Court for the District of Montana has granted the Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America's, R-CALF, request for a preliminary injunction barring USDA's minimal risk rule from taking effect. This is the second time that USDA has lost in court on this issue.

While we still await the judge's rationale for this decision, I believe the unfortunate reality is that USDA has largely dug its own hole by failing to follow U.S. legal procedure and scientific guidelines in its rule for further reopening U.S. markets to Canadian cattle and beef. Sadly, it is U.S. producers and processors that bear the brunt of USDA's failings.

I have been concerned that USDA's final minimal risk rule strays from the World Animal Health Organization's—OIE—scientific guidelines in important respects. Specifically, USDA has crafted minimal risk criteria that are weaker than OIE standards specify. For instance, USDA's rule does not spell out what is required to have an effective ruminant-to-ruminant feed ban, an effective BSE surveillance plan, or require a compulsory reporting and investigation system. In fact, USDA seems to have purposefully dropped elements of the OIE guidelines that might have required the United States to classify Canada as a moderate risk country for BSE instead of minimal risk.

At a hearing of the Committee on Agriculture, Nutrition, and Forestry on these issues, USDA attempted to explain these discrepancies by stating that there are redundancies among the several types of measures against BSE, and therefore if a country is weaker in one measure it might compensate in another measure. However, in the case of Canada, USDA has failed to set forth what measures Canada might be stronger in that warrant allowing slippage in others.

I am fully aware that these concerns about Canada are relevant to our systems here in the United States for preventing and detecting the incidence of BSE. Since we first discovered BSE in this country, I have questioned the efficacy of both our restrictions on feeding ruminant byproducts and our BSE surveillance plan. I do not believe

there are grave problems that threaten human health, but I do believe there are areas where we need improvement, such as enforcement of our feed rules and the effectiveness of our surveillance efforts.

Ultimately, we need to come to a common agreement with our beef and cattle trading partners regarding an acceptable framework for classifying a country's risk of BSE. If USDA designates a minimal risk region for trading that does not stand up to the scientific principles that are established by OIE, we will hinder those efforts to reopen markets.

It is a sadly ironic footnote to this debate that, were USDA to correct the deficiencies in its rule, it would not prevent any of the Canadian cattle or beef products that USDA has proposed to allow from entering the United States. It would simply necessitate that some additional safeguards be put into place.

Unfortunately, USDA has turned a deaf ear to these valid concerns about the rule, and that is why we find ourselves here today. I hope USDA is listening to today's debate and will take these concerns more seriously. Our objective today is not to shut down trade indefinitely but, rather, to obtain the needed changes in the rule to facilitate the restoration of safe trade in cattle and beef products with countries that have experienced BSE. And that includes reopening now-closed markets for U.S. beef exports.

I urge my colleagues to approve this resolution.

Mr. GRASSLEY. Mr. President, let me be very clear about this. I feel passionately about competition and concentration-based issues.

Last Congress I introduced the Packer Ban, the Transparency Act, which requires packers to purchase pigs and cattle for slaughter from the cash market daily, the 20–10 bill, which limits any packer which owns more than 20 million head of pigs to slaughtering less than 10 million vertically integrated pigs, and a bill to eliminate mandatory arbitration clauses from production contracts, similar to legislation we passed for car dealers.

I feel strongly that we need to empower producers through legislation based on leveling the playing field, but this resolution is not how we should accomplish that goal.

By supporting this resolution we are taking a protectionist position instead of encouraging free trade. We might delay the importation of 900,000 feeders, but ultimately we are potentially putting our entire export market at risk, including the Japanese market.

In the world we lead by example, and if our example is tied to the precautionary nature of this resolution, expect the world to potentially follow suit.

The decision by USDA to re-open the border has been construed as a ''rush to judgment''. That could not be further from the truth.

The truth of the matter is that we have an obligation to look at the science of the issue and if the science dictates, we should re-open the border. That is where we are today. If someone this morning can demonstrate to me that the science USDA has relied on is faulty, I would be the first person to say we should not move forward, but science must dictate our course, not political will.

Mr. FRIST. Mr. President, I rise in opposition to S.J. Res. 4 that would disapprove the administration's regulations that would reestablish trade with Canada for live cattle under 30 months of age.

As a doctor, I fully appreciate our responsibility to protect the American public's health and safety by making sure our food supply is secure.

At the outset of the bovine spongiform encephalophathy, BSE, scare in December 2003, the former Secretary of Agriculture Ann Venaman worked tirelessly to address this public health concern. That work has continued under the new Secretary of Agriculture Mike Johanns.

Based on the information I have seen, I believe multiple safeguards are in place today both in Canada and the United States to protect human and animal health. Based on a U.S. investigative team that has examined Canada's compliance with a feed ban, based on a strong Canadian surveillance system testing cattle most likely to have had BSE, and, based on a ban on cattle imports into Canada from countries that have had widespread BSE, all reasonable efforts appear to have been taken at this time to minimize the risk of Canadian beef imports into the United States.

Sound science must be a basis to governing our trade relations around the globe. I believe that such science has been applied here and that the administration's regulations on Canadian beef import should proceed.

I ask my colleagues to reject this resolution.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Mr. President, I yield the Senator from Colorado 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. ALLARD. Mr. President, questions were raised earlier about the accuracy of dentition; in other words, looking at the eruption of teeth to identify when the animal is 30 months old. That is pretty exact science. It is very reliable; not to say maybe one or two cows will slip through that are off a month or two. That is why the 30-month period was selected, because this is a disease of slow onset, and when they are under 30 months, we ordinarily do not have to worry about them.

Let us suppose somebody has some concerns about an animal that may be infected with BSE coming across a border. What happens is there are certain rules and regulations where one transfers from Canadian regulation over to American regulation. We only have certain points of entry into the United States, and when that animal comes into the United States, it is very adequately marked. They have ear tags and they are branded so that if something should happen to the ear tags, they still have the brand on the animal.

The only thing that can happen to that animal is it moves into an approved feedlot, it is isolated in that feedlot, for the purpose of slaughter. So that animal then is processed for slaughter. In the processing procedure, all of the central nervous system tissue—the brain, spinal cord—is discarded. It is not used for consumption. If there is a temperature on that animal, it is not slaughtered.

So when one takes into consideration the final steps of the process, they can understand I do not hesitate to suggest that people ought to eat beef. Our beef is safe and the beef processed in this country is safe.

I have a letter dated March 3. It was sent to me and is from Jim McAdams, president of the National Cattlemen's Beef Association. He states flatly that this resolution should be opposed for the following reasons, and he gives six reasons. He says this resolution should be opposed and in its place would urge the Senate to support an effort to open the Japanese, South Korean, and additional markets for U.S. cattle producers.

I thank those 19 Senators who joined me in writing a letter to the Japanese Ambassador to open their markets to American beef.

Mr. McAdams states that the failure to open these markets has cost the U.S. cattle producers $175 per head and a cumulative loss of nearly $5 billion in income. We need the full attention of the Senate to act on this issue, not to act to block science-based trade policies.

Then No. 2 states:

The resolution supports blocking a science and risk-based analysis and phasing in opening of the Canadian borders. This action does meet the real needs of U.S. cattle producers, as it will give excuses for other countries to block our exports.

Point No. 3 in the letter opposing the resolution:

The resolution should be opposed and in its place, we urge the Senate to support action to ensure the Canadian government eliminates their blue tongue and anaplasmosis trade barriers for all classes of U.S. cattle exports to Canada.

Think about that.

The resolution will allow maintaining the status quo with Canada further accelerating the shift of the packing, processing capacity, and jobs from the U.S. to Canada, and hurting U.S. cattle producers.

The resolution ignores the fact that beef is safe. Analysis of the reports by industry and government clearly indicate that Canada, just like the U.S., has taken the necessary steps to ensure that their beef is safe. This

resolution perpetuates fear mongering over nonexistent safety concerns and misrepresents well-documented science doing a disservice to the cattle industry and U.S. consumers.

The USDA has already addressed prior producer concerns of this rule, to the extent that USDA has withdrawn the section of the final rule regarding beef from animals over thirty months.

We urge you to vote NO on this resolution.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, the issue before this body is as clear as it can be. This is going to be a consequential vote, make no mistake about it. This may be a vote that Members look back on and, if they vote against this resolution, they may deeply regret that in the future, because if, God forbid, additional mad cow cases come in from Canada, and that awful disease spreads in America, the consequences to this country could be enormous.

We all know what happened in Europe. It is not a matter of speculation. In England, 146 people died. Nearly 5 million head were slaughtered in England alone.

Let us connect the dots. In Canada, we know there are four confirmed cases of mad cow disease from cattle raised in that country. In addition, there is one case of a confirmed BSE positive cow, mad cow, that was imported from England. That is five cases. The most recent was a cow born after Canada supposedly put in the protections. The Canadians' own inspection service found that in 59 percent of the cases where they tested, animal matter was found where it was not supposed to be. That is what heightens the risk of mad cow disease.

Some of those cases, in fairness, have now been resolved. Seventeen percent of the cases have not been. In Canada, there are 25,000 feed-producing entities on farms. They produce half of all the feed in Canada. Only 3 percent have been checked in the last 3 years. There are four known cases of mad cow in Canada. There should be no rush to open this border in the face of that evidence. The risk to this country, the risk to human life, and the risk to this industry is simply too great.

My colleague talks about the National Cattlemen's position. This is what they have said with respect to opening the border. They said there are 11 conditions that should be met, and 8 of them have clearly not been met. I do not know if they have changed their position subsequently, but this is what they outlined, and 8 of these 11 positions have not been met.

In my own State, the cattlemen have told me to go forward with this resolution. My own State legislature, overwhelmingly Republican, has overwhelmingly approved a resolution asking us to keep this border closed until we can have greater confidence that Canada is enforcing their own regulations.

This is a consequential vote. The potential risk to this country is enormous. Anybody who is betting that Canada is enforcing their regulations is making a bet that I do not think stands much scrutiny.

I will end as I began, at least in this part of the debate. When the Canadian media used the Information Act in their country to look at what the Canadian testing authority themselves had found, they looked at 70 tests conducted by the Canadian agency, and they found in 59 percent of the cases, animal matter was present where it was not supposed to be. This is a risk that is not worth taking. The consequences could be far too grave for the American people and the American economy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. 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.

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

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

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that we proceed as in morning business and that Senator DOLE be recognized for 5 minutes, Senator MARTINEZ for 5 minutes, Senator ALLARD for 3 minutes, and myself for 3 minutes.

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

(The remarks of Mrs. DOLE, Mr. MARTINEZ, Mr. CONRAD, and Mr. ALLARD are printed in today's RECORD under ''Morning Business.'')

ORDER OF PROCEDURE—S. 256

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the votes in relation to the Dayton and Nelson amendments, which were to follow immediately after the vote on S.J. Res. 4, now be set to occur at 2 o'clock.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CHAMBLISS. I further ask unanimous consent that at 12:50 the Senate proceed to a vote on adoption of the pending resolution with the time equally divided between Senators Chambliss and Conrad.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. Mr. President, if I may very briefly sum up, I hope my colleagues will give careful consideration to this vote. This vote would disapprove the ruling from the USDA that the border with Canada should be opened on March 7.

I say respectfully that this runs a risk which we should not take. It is very clear from all of the evidence that Canada is not enforcing the regulations upon which USDA relied in recommending that the border be opened. The consequences to our country could be serious and dramatic.

Let me close by reminding my colleagues that when mad cow disease got loose in England, 146 people died, and nearly 5 million head of livestock were slaughtered. We cannot and we should not run the risk of prematurely opening our border when we know there are four confirmed cases of mad cow disease in Canada, and when we know from the Canadians' own inspection service that in nearly 60 percent of the cases, animal matter was found where it should not have been.

This is a consequential vote. I hope my colleagues will take it seriously. We ought to at least buy time until further investigations are made to assure us that the risk of mad cow disease coming into this country has been reduced in as significant a way as is possible.

I thank my colleagues.

Mr. CHAMBLISS. Mr. President, again I thank my colleague from North Dakota for bringing up this issue. I know it is of critical importance, as do a number of Members of this body. But I must remind folks that as we have gone through the debate here today, we have heard time and time again from those who are opposed to this resolution that this is an issue not of emotion but an issue of sound science. All of the sound science says that the Secretary of Agriculture has made the correct decision and that the border should be opened with Canada for the importation of beef and cattle under 30 months of age.

I want to remind our folks, too, that as you think about how you are going to vote, know and understand that once again the checks and balances system we have in our Constitution is at work on this issue. There was a court decision yesterday. A temporary restraining order was issued relative to the further reopening of the border on Monday. That decision will be decided on the merits after a full hearing from both sides. In this body we have heard contradictory statements. There an impartial judge will make a decision based upon his findings relative to the facts in the case.

This is not a health issue. It is not a health risk to human beings if the border is reopened. This is an issue of animal safety. It should be based upon sound science.

Let me read two things.

First of all, I have a letter from the Secretary of Agriculture dated March 3, 2005, and I want to read two sentences from the letter.

First, the Secretary says:

If Canadian beef and cattle posed a risk to U.S. human or animal health, USDA would never have proposed reopening the border. Science must be the touchstone governing our trade relations and guiding our actions.

Continued closure of the Canadian border is not justified by the best scientific understanding of BSE risks.

Lastly, let me read a Statement of Administration Policy dated March 3, 2005, from the Executive Office of the President of the United States, Office of Management and Budget, as follows:

The Administration strongly opposes Senate passage of S.J. Res. 4, a resolution to disapprove the rule submitted by the United States Department of Agriculture (USDA) with respect to establishing minimal risk regions and reopening the Canadian border for beef and cattle imports. USDA's rule is the product of a multi-year, deliberative, transparent, and science-based process to ensure that human and animal health are fully protected. S.J. Res. 4, which would prevent the reopening of our Canadian border, would cause continued serious economic disruption of the U.S. beef and cattle industry, undermine U.S. efforts to ensure that international trade standards are based on science, and impede ongoing U.S. efforts to reopen foreign markets now closed to U.S. beef exports. If S.J. Res. 4 were presented to the President, he would veto the bill.

With that, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CONRAD. How much time remains?

The PRESIDING OFFICER. There is 56 seconds remaining.

Mr. CONRAD. Mr. President, I say quickly in response, no court can relieve the responsibilities of this vote from our Members. Every Member is going to be responsible for the vote we cast. When my colleague says this is not a health issue, I respectfully disagree. This is profoundly a health issue. If mad cow disease is ever unleashed in this country, God forbid, we will find out what an acute health issue it is.

I urge my colleagues to support the resolution. It is the prudent, careful, and cautious thing to do.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The joint resolution was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution pass? The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 19 Leg.]

YEAS—52

Akaka	Clinton	Durbin
Baucus	Coburn	Ensign
Bayh	Conrad	Enzi
Biden	Corzine	Feinstein
Bingaman	Craig	Harkin
Boxer	Crapo	Inhofe
Burns	Dayton	Jeffords
Byrd	Dodd	Johnson
Cantwell	Domenici	Kennedy
Carper	Dorgan	Kerry
Kohl	Nelson (NE)	Shelby
Landrieu	Obama	Smith
Lautenberg	Reed	Stabenow
Leahy	Reid	Thomas
Levin	Salazar	Thune
Lieberman	Sarbanes	Wyden
Mikulski	Schumer	
Murray	Sessions	

NAYS—46

Alexander	Dole	Murkowski
Allard	Frist	Nelson (FL)
Allen	Graham	Pryor
Bennett	Grassley	Roberts
Bond	Gregg	Rockefeller
Brownback	Hagel	Santorum
Bunning	Hatch	Snowe
Burr	Hutchison	Specter
Chafee	Isakson	Stevens
Chambliss	Kyl	Sununu
Cochran	Lincoln	Talent
Coleman	Lott	Vitter
Collins	Lugar	Voinovich
Cornyn	Martinez	Warner
DeMint	McCain	
DeWine	McConnell	

NOT VOTING—2

Feingold	Inouye

The joint resolution (S.J. Res. 4) was passed, as follows:

S.J. RES. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress disapproves the rule submitted by the Department of Agriculture relating to the establishment of minimal risk zones for introduction of bovine spongiform encephalopathy (published at 70 Fed. Reg. 460 (2005)), and such rule shall have no force or effect.

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

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

The motion to lay on the table was agreed to.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. The Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

Pending:

Leahy Amendment No. 26, to restrict access to certain personal information in bankruptcy documents.

Dayton Amendment No. 31, to limit the amount of interest that can be charged on any extension of credit to 30 percent.

Feinstein Amendment No. 19, to enhance disclosures under an open end credit plan.

Nelson of Florida Amendment No. 37, to exempt debtors from means testing if their financial problems were caused by identity theft.

Durbin Amendment No. 38, to discourage predatory lending practices.

Rockefeller Amendment No. 24, to amend the wage priority provision and to amend the payment of insurance benefits to retirees.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 31

Mr. SHELBY. Mr. President, I rise in opposition to the amendment offered by my colleague from Minnesota, Senator DAYTON. Basically, he has offered an amendment to create a Federal usury law. While I understand and appreciate the good intentions of my colleague, I cannot support what amounts to Federal price controls. This is a mode of regulation from a bygone day.

Price controls are a failed experiment that often hurt those who they are intended to help. Even if the price control envisioned in this amendment was never triggered, it would set a very bad precedent.

Credit underwriting is the assessment of the risk. Interest rates are intended to reflect the risk of a particular credit. They have to.

While I appreciate my colleague's concerns, I fear that his amendment will result in credit becoming less accessible to more Americans. Market forces are the best regulator of prices. As chairman of the Banking Committee, which has jurisdiction over consumer credit and price controls, I must oppose this amendment and encourage my colleagues to do so. We are going to have some hearings on similar matters in the Banking Committee, and I hope Senator DAYTON would work with us in that regard.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise to underscore the statement just made by the chairman of the Banking Committee. This issue embraced in this amendment is very far-reaching. There have been no hearings on it. The chairman has indicated he intends to do some hearings on issues relating to the matter that is before us. It does not seem to me to be a wise or prudent course to consider what would, in effect, be a very major legislative step in the absence of appropriate consideration by the committee of jurisdiction; therefore, I intend to also oppose this amendment, primarily on those grounds.

The substance is a complicated issue, and in any event it is very clear it needs to be very carefully examined and considered. I do not think that has occurred in this instance, and I hope my colleagues would perceive the matter in the same way.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 44

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON, proposes an amendment numbered 44.

Mr. KENNEDY. 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 amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage)

At the appropriate place, insert the following:

TITLE ____—FEDERAL MINIMUM WAGE

SEC. ___01. SHORT TITLE.

This Act may be cited as the ''Fair Minimum Wage Act of 2005''.

SEC. ___02. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2005;

''(B) $6.55 an hour, beginning 12 months after that 60th day; and

''(C) $7.25 an hour, beginning 24 months after that 60th day;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. ___03. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Stnadards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

Mr. KENNEDY. Mr. President, this amendment will increase the minimum wage from $5.15 an hour to $7.25 an hour over roughly a 2-year period. My friend from Pennsylvania, Senator SANTORUM, will offer his own minimum wage amendment, and he will do so later on in the afternoon. We intend to debate this and vote on it, subject to the agreements of the leaders, probably late Monday afternoon, and we will take the opportunity during Monday afternoon to get into greater details. Both Senator SANTORUM and I have agreed that we would each make a brief presentation on this item at this time.

We have not seen an increase in the minimum wage for 8 years. At the present time, the minimum wage has fallen to the second lowest level in the last 45 years. Since 1938, the minimum wage has been increased on eight different occasions. On most of those occasions it has been with bipartisan support. Republicans have recognized that we ought to treat people fairly and decently, and those at the lower level of the economic ladder ought to be able to have a livable wage. President Eisenhower felt that way, President Ford felt that way, and the first President Bush felt that way. We are asking the Senate to join us in going back to having the minimum wage at least increase to a reasonable level.

Now, who are the minimum wage earners? The minimum wage earners are men and women of dignity. Even though they get paid at a minimum wage, they work hard, they take a sense of pride in what they achieve, and they do a hard day's work. More often than not, they not only have one job, but they have two jobs and sometimes even three jobs.

What sort of jobs do the minimum wage workers have? First, many of them are teachers' aides in our school systems, working with the young students of America. Many others are working in our nursing homes, looking after the parents who were part of the ''greatest generation,'' men and women who sacrificed for their own children, men and women who brought this country through the Great Depression. These are men and women of dignity who take a sense of pride in their work.

Beyond that, who are they? This is basically a women's issue because the great majority of the millions of people who would benefit from this minimum wage increase are women. It is a children's issue because a one-third of those women have children. So it is a women's issue and it is a children's issue. It is also a civil rights issue because many who earn the minimum wage are men and women of color. So it is a family issue, a women's issue, a children's issue, a civil rights issue, and, most of all, it is a fairness issue. Americans understand fairness. What they understand is anyone who will work 40 hours a week, 52 weeks of the year, should not have to live in poverty in the United States of America. That is what this issue is all about. That is what the vote will be on, on Monday next, whether we are going to say to millions of our fellow citizens that they will not have to live in poverty, although they will still be earning below the poverty rate.

What the amendment will do is the following. It is the equivalent of 2 years of childcare. It will provide full tuition for a child in a community college, or a year-and-a-half of heat and electricity, or more than a year of groceries, or more than 9 months of rent.

This might not sound like very much to the Members of this body who have seen their pay increase seven times since we have last increased the minimum wage. But we ought to be able to say here and now that we will join the traditions of an Eisenhower, a Ford, and the first President Bush, Democrat and Republican Presidents alike, and say those working Americans who work at some of toughest and most difficult jobs, men and women of pride and dignity, ought to be paid a fair wage. That is what this amendment is about. We look forward to a further debate when we have the opportunity to do so on Monday next.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to temporarily set aside the pending amendments to offer an amendment.

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

AMENDMENT NO. 42

Mr. SCHUMER. The amendment is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself, Mr. BINGAMAN, Mr. DURBIN, and Mrs. FEINSTEIN, proposes an amendment numbered 42.

Mr. SCHUMER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the exemption for asset protection trusts)

On page 205, between lines 16 and 17, insert the following:

SEC. 332. ASSET PROTECTION TRUSTS.

Section 548 of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(e) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the trust or to similar trusts within such 10-year period exceeds $125,000, to the extent that debtor has a beneficial interest in the trust and the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2). For purposes of this subsection, a fund or account of the kind specified in section 522(d)(12) is not an asset protection trust.''.

Mr. SCHUMER. Mr. President, I will be very brief. This amendment closes the so-called millionaires loophole. If any of you happened to read yesterday's New York Times, there is in existing law a hidden loophole which basically says if you are a millionaire and want to file a certain trust in one of five States, you can hide all your money even though you declare bankruptcy. So the irony is, in this bill, while we are talking about people who make $35,000 or $40,000 or $45,000 and we want to make sure they do not abuse bankruptcy, the law allows this abuse of bankruptcy.

The Bankruptcy Abuse Prevention and Consumer Protection Act, which I am introducing along with my colleagues Senators DURBIN, FEINSTEIN, and BINGAMAN, and I believe Senator CLINTON as well, will close this loophole.

You do not have to be a resident of these five States, but you can be a millionaire or billionaire and stash away assets: mansions, racing cars, yachts, investments, in a special trust, and you can hold onto that windfall after bankruptcy. That is not fair. We will debate the amendment later this afternoon. I want to notify my colleagues and place it in order on the floor.

The amendment has been read?

The PRESIDING OFFICER. Yes, it was.

Mr. SCHUMER. It is now in order so I will yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. SCHUMER. I am happy to.

Mr. KENNEDY. One of the concerns many of us had in this bill is the interest of fairness. I think fairness ought to be standard for any piece of legislation. As it is currently before us, we will have those who will be able, with their homestead exemption, to preserve homesteads valued at millions and millions of dollars and, on the other side, individuals will lose completely all of their savings because they will lose their homes. There is no fairness there.

The Senator from New York is pointing out in another area the issue of fairness. Those who have resources and have wealth and have the contacts will be able to shelter their resources while basically middle-income working families, the working poor who are trying to get by and have seen an explosion of different costs, on housing, on health care, on tuition, will be buried.

This will be another dramatic example where those who have it will be able to preserve it and those who have been struggling will lose it.

Mr. SCHUMER. I thank my colleague. He is exactly on point. It is outrageous that someone worth millions or billions of dollars can declare bankruptcy and then shield their assets in this trust so they do not come before the bankruptcy court. The Senator, my friend from Massachusetts, is exactly right; we are talking about people who make $45,000 and we are going after them, yet we are allowing millionaires and billionaires to use this loophole. Of course, it is not all millionaires and billionaires, it is a small number who go into bankruptcy and who abuse it. We can close it. We will debate this amendment later this afternoon, but let us hope that we do not have a lockstep, let's vote ''no'' on everything. It would be hypocritical to say we have to close abuses on middle-income people and not close abuses on the very wealthy.

I will be happy to continue to yield to my friend.

Mr. KENNEDY. I will ask a final question. A third of all the bankruptcies are among those who are earning below the poverty line. Does the Senator think they will be able to take advantage of this loophole?

Mr. SCHUMER. I would say to my colleague from Massachusetts, they can't even afford the lawyer to write the first page of the trust that these others can. Again, the question answers itself. What is good for the goose is good for the gander. What is good for someone below the poverty line certainly ought to be good for millionaires and billionaires who want to abuse the bankruptcy process.

I yield the floor in deference to my colleague from Pennsylvania.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Pennsylvania is recognized.

AMENDMENT NO. 44

Mr. SANTORUM. Mr. President, I understand I only have a couple of minutes, so I will be very brief. I want to speak on the issue of minimum wage. I know the Senator from Massachusetts has offered this amendment on the minimum wage to this package. I will be opposing the Kennedy amendment and will be offering an alternate to this amendment. But let me explain first why I oppose the Kennedy amendment.

First, it doesn't belong on this bill. Even the amendment I will offer as an alternative does not belong on the bill. I have spoken to Senator KENNEDY and others about what I believe is the appropriate place for this discussion. That is the welfare reform bill. It will be a bill that will come here and have a lot of amendments and it focuses on how we help those who are transitioning from welfare to work, how we help them and give them the support they need to be able to have work that pays well enough for them to get out of poverty. I think this discussion fits best, and I would argue has the better chance of actually ending up in a final bill and being sent to the President, on the welfare bill as opposed to here, which I think everyone recognizes is a bill that has been worked on for years and years and years.

We have a bill that has bipartisan support, with the hope of trying to get this to the President at a propitious time. So I would make the argument, No. 1, first and foremost I would oppose the Kennedy amendment on that ground.

Second, I suggest——

Mr. KENNEDY. Will the Senator yield for a question on that part?

Mr. SANTORUM. I only have about 1 minute and I am happy to yield to the Senator from Massachusetts for a brief question.

Mr. KENNEDY. I offered the amendment on the TANF bill last year and the bill was pulled because it was offered as an amendment. So that is part of our frustration.

Mr. SANTORUM. I respect the Senator from Massachusetts. I think there is a little different environment. I think there is a broad group who will deal with the reauthorization of welfare and deal with that and get a bill passed and sent to Congress this year, and you will certainly have my support trying to get that done in a fashion that I believe reinstates work requirements, which have fallen off because of the drop in the welfare rolls across America.

The second reason I oppose the Kennedy amendment is because the increase is too dramatic at this point. We are talking about an over $2 increase, over a 40-percent increase in the minimum wage. While I do support a modest proposal, something about half that amount, I think that is the wise thing to do in this economy, which is not to put a jolt of that nature into what is already a concern about inflation. To be able to put that kind of minimum wage increase in I think would fuel inflationary fears. It would have strong negative repercussions in our economy, broadly.

While I do understand the need now that it has been almost 8 years without a minimum wage increase, I think what I will be offering is a modest one that comports with and will fit within this economy. We do some things to address the issue of small businesses, which the amendment of the Senator from Massachusetts does not do.

We don't want to disproportionally affect those poor communities, or hurt the small business neighborhood store or cleaners or whatever the case may be that is trying to make ends meet by putting this kind of increased cost on them as high as the Kennedy amendment would be, or even as high as what I would suggest, without some sort of relief to compensate very small businesses. I think that would be unwise and it would hurt the community. We want to help by providing more resources. Increasing the minimum wage does not help those small businesses in that community. I think it would have a bad, overall negative effect on the very poor communities of our society.

I see my time is up. I yield the floor.

AMENDMENT NO. 31

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, there will be 4 minutes equally divided on debate in relation to amendment No. 31.

Who yields time?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, this legislation is entitled ''The Bankruptcy Abuse Prevention and Consumer Protection Act.'' Unfortunately, there is actually very little consumer protection in it.

My amendment would add some much needed consumer protections to the bill and end one of the principal abuses that drives people into bankruptcy—exorbitant interest rates.

My amendment would limit the maximum annual interest rate that could be charged to any consumer by any creditor to 30 percent. Thirty percent is still a very high interest rate—far too high, in my view.

Inflation is currently running around 2 percent. The interest rate on 3-month Treasury bills is 2.75 percent. The prime lending rate is 5.5 percent. So 30 percent is exorbitantly high, but it is much less than the 384 percent that is being charged by money centers in Minnesota, or the 535-percent annual interest rate charged by centers in Wisconsin, or the 1,095-percent interest rate being charged by the County Bank of Rehoboth Beach in Delaware. That is not just predatory lending, that is ''terroristic'' lending.

My amendment would apply to any rate of interest charged by any creditor to any borrower for any purpose. However, it would not preempt any State,

local, or private restriction that imposes a lower rate of interest.

For example, 21 States, which include my home State of Minnesota, cap interest rates for credit cards. Minnesota's ceiling is 18 percent. That would still apply. Yet when money centers operate in Minnesota at 384 percent interest, that limit would be 30 percent.

Again, under my amendment, whenever a creditor is limited to a lower interest rate, that lower rate would apply. Whenever there is no interest cap, or wherever that cap is higher than this amendment's 30-percent limit, then this 30-percent annual interest rate would apply.

I urge my colleagues to support this amendment. It has the support of the Consumer Federation of America, the National Association of Consumer Advocates, and the U.S. PIRG.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, let me just say a few words about why this amendment is not a good amendment and one that should be voted down.

This would cap the interest rate for consumer credit extensions at 30 percent in this country, and, frankly, would preempt many States' usury laws unless the State has a lower interest rate.

In other words, preemption of State laws is something we sought to avoid in this bill. We have refused to do so in the homestead provisions, so there is no reason to touch the State usury laws as well.

There is no dispute that lending agencies are already heavily regulated. We have already restricted usury rates on first-lien loans. Additionally, special usury provisions in the National Bank Act and Federal Deposit Act preempt State usury laws for national State banks.

We did not preempt these State laws haphazardly as we would do today by passing the Dayton amendment.

I believe we should stick with the bill as written. We have taken this into consideration. We have worked long and hard over 8 years to get this right. And, frankly, I think this amendment is an inappropriate amendment and should be voted down.

I hope our colleagues will vote it down.

I yield the remainder of our time.

Mr. President, I 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 24, nays 74, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—24

Akaka	Dodd	Lieberman
Bayh	Dorgan	Mikulski
Boxer	Feinstein	Murray
Byrd	Harkin	Pryor
Clinton	Jeffords	Rockefeller
Conrad	Kennedy	Salazar
Corzine	Lautenberg	Schumer
Dayton	Levin	Stabenow

NAYS—74

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Allen	Durbin	Nelson (FL)
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Obama
Biden	Frist	Reed
Bingaman	Graham	Reid
Bond	Grassley	Roberts
Brownback	Gregg	Santorum
Bunning	Hagel	Sarbanes
Burns	Hatch	Sessions
Burr	Hutchison	Shelby
Cantwell	Inhofe	Smith
Carper	Isakson	Snowe
Chafee	Johnson	Specter
Chambliss	Kerry	Stevens
Coburn	Kohl	Sununu
Cochran	Kyl	Talent
Coleman	Landrieu	Thomas
Collins	Leahy	Thune
Cornyn	Lincoln	Vitter
Craig	Lott	Voinovich
Crapo	Lugar	Warner
DeMint	Martinez	Wyden
DeWine	McCain	

NOT VOTING—2

Feingold	Inouye

The amendment (No. 31) was rejected.

AMENDMENT NO. 37

The PRESIDING OFFICER. Under the previous order, there will be 4 minutes equally divided for debate in relation to amendment No. 37.

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, there is one exception the Senate should consider to this bankruptcy bill in filing bankruptcy, and that is when someone incurs debts due to no fault of their own. When someone incurs debts through no fault of their own because their identity has been stolen and they are forced to go into bankruptcy, why should we force them not to take chapter 7 in bankruptcy, instead to go through chapter 13?

If you don't think identity theft and bankruptcy therefrom is a problem, look at the top consumer complaints of the Federal Trade Commission and notice 39 percent are identity theft. Don't think you are immune from identity theft. Did you hear the news on Friday night that Bank of America has had the records of 1.2 million Federal employees stolen, including 60 Senators in this Chamber? You are potential victims, including this Senator. I am on the list. So why should we not hear the pleas of people all across the land?

A story from Florida where identity was stolen, they ran up $40,000. They can't pay that off. Another case in New York, a friend stole identity and ran up $300,000. The person had no choice but go into bankruptcy. Surely this is an example of an exception to this bill that we should make.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in opposition to the Nelson amendment, although I commend the Senator from Florida in his work on this issue of identity theft. This amendment is written so broadly, it actually invites fraud despite its well-intentioned purposes. I understand there will be several hearings on the issue of identity theft, and I look forward to working with my friend from Florida and my other colleagues to find a solution. But for now, this is written so broadly that I think it actually invites fraud. I hope my colleagues will oppose the amendment because it would cause a lot of difficulty on this bill.

Mr. NELSON of Florida. Will the Senator yield for a clarification?

Mr. HATCH. I am happy to yield.

Mr. NELSON of Florida. Does the Senator realize that in my amendment anyone who incurs less than $20,000 of debt as a result of identity theft would not be eligible to become an exception under the bankruptcy bill?

Mr. HATCH. I do. But it is written so broadly that anybody who claims they have been defrauded, whether they have or have not, qualifies under your amendment. That is way too broad under this bill. I am happy to work with the distinguished Senator, and we will see what we can do later in this Congress. I hope everybody will vote down this amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 37.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 37, nays 61, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—37

Akaka	Feinstein	Murray
Baucus	Harkin	Nelson (FL)
Bayh	Jeffords	Obama
Boxer	Kennedy	Pryor
Byrd	Kerry	Reed
Cantwell	Kohl	Reid
Clinton	Landrieu	Rockefeller
Conrad	Lautenberg	Salazar
Corzine	Leahy	Sarbanes
Dayton	Levin	Schumer
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	
Durbin	Mikulski	

NAYS—61

Alexander	Burr	Crapo
Allard	Carper	DeMint
Allen	Chafee	DeWine
Bennett	Chambliss	Dole
Biden	Coburn	Domenici
Bingaman	Cochran	Ensign
Bond	Coleman	Enzi
Brownback	Collins	Frist
Bunning	Cornyn	Graham
Burns	Craig	Grassley

Gregg	McCain	Stevens
Hagel	McConnell	Sununu
Hatch	Murkowski	Talent
Hutchison	Nelson (NE)	Thomas
Inhofe	Roberts	Thune
Isakson	Santorum	Vitter
Johnson	Sessions	Voinovich
Kyl	Shelby	Warner
Lott	Smith	Wyden
Lugar	Snowe	
Martinez	Specter	

NOT VOTING—2

Feingold	Inouye

The amendment (No. 37) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote and lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that Senator BYRD be recognized for up to 10 minutes and that at 3:25 the Senate vote in relation to the Durbin amendment No. 38 with no amendments in order prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I did not quite understand the last portion of the unanimous consent request. I understand Senator BYRD shall be recognized for 10 minutes, and then what transpires?

Mr. MCCONNELL. Then we move to the Durbin amendment, with a vote at 3:25.

Mr. DORGAN. My understanding is Senator BYRD will take 10 minutes. I have no objection to the vote at 3:25, but I ask unanimous consent that the request be modified and I be recognized following Senator BYRD's comments.

Mr. MCCONNELL. I ask unanimous consent that Senator DORGAN be recognized at the conclusion of Senator BYRD's remarks.

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

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair, and I thank Senator MCCONNELL and also my own leadership for the kindness in arranging for me to speak at this time.

(The remarks of Mr. BYRD pertaining to the introduction of S. 515 and S. 514 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, we are dealing with the bankruptcy bill. I am going to send an amendment to the desk. I ask the pending amendment be set aside so my amendment may be considered.

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

AMENDMENT NO. 45

(Purpose: To establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism)

Mr. DORGAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. DORGAN), for himself and Mr. DURBIN, proposes an amendment numbered 45.

Mr. DORGAN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is printed in today's RECORD under ''Text of Amendments.''

Mr. DORGAN. Mr. President, I send that amendment to the desk on behalf of myself and Senator DURBIN, who joins me as a cosponsor of the amendment.

The bankruptcy reform bill on the floor of the Senate today ostensibly deals with the subject of those who would attempt to cheat with respect to filing bankruptcy. We have had a lot of discussion on the floor about the abuse of bankruptcy. There is no question about that; there is some of that. It is called cheating. But there is another form of cheating going on now to which very little attention is paid, and my amendment attempts to deal with it.

I am going to put up a chart that shows $2 million dollars on a table, in a room somewhere in Iraq. These are Americans holding this cash. This cash is to be deposited in a plastic bag to pay contractors in Iraq. The contractors are told ''bring a bag and we will fill your bag with cash.'' That is the way you pay bills over there.

This particular picture was given to us by this gentleman here, who was working in Iraq. He said it was like the Wild West; just bring your bag and fill it with cash.

His testimony, which we heard at a hearing of the Democratic Policy Committee, followed the testimony of others that we have received about the massive waste, fraud, and abuse in contracting that has been going in Iraq. The American taxpayers are taking it on the chin, but none of the authorizing committees of jurisdiction in the U.S. Senate are holding hearings about this.

Well, the Democratic Policy Committee has held some oversight hearings. The testimony at the hearings is absolutely devastating.

Halliburton charges for 42,000 meals to be served in a day to American soldiers. It is determined, however, that the company is only serving 14,000 meals a day. So they are charging the taxpayer for 42,000 meals to be served to soldiers when in fact they are only serving 14,000 meals.

We hear about the payment of $7,500 a month to lease SUV vehicles. We hear about the ordering of 50,000 pounds of nails, that turn out to be of the wrong size, and just get dumped by the side of the road. We hear about $40 to $45 a case for soda pop.

A senior manager from the Defense Department, who used to be in charge of providing fuel for vehicles in war zones, testified that Halliburton was charging $1 more per gallon for gasoline than they should have. There are overcharges adding up to $61 million on that issue alone.

One fellow came to a DPC hearing and he held up towels. He worked for a subsidiary of Halliburton. He ordered towels because the soldiers needed the towels and they got a requisition order. Guess what. KBR, Halliburton's subsidiary, charged nearly double the cost of regular towels because they insisted on having the KBR logo embroidered on the towels. So the U.S. taxpayer gets soaked because the company wants their logo on the towels. It is extraordinary what is happening here, and nobody seems to care that much.

We heard of contractors that were driving $85,000 brand new trucks in the country of Iraq, and whenever they had flat tires or a plugged fuel lines, they abandoned the vehicles and just bought new ones. The American taxpayer is paying for all of that, and nobody seems to care.

Well, in the years of 1940 and 1941, Harry Truman, as we were about to enter World War II, got into his car and drove around this country touring air bases and military installations. He came back and suggested a special committee be impaneled in Congress. That committee became known as the Truman Committee, and was active for several years. They saved, by today's accounts, somewhere close to $15 billion by exposing waste, fraud, and abuse. That was a Democratic Senator working at a time when there was a Democrat in the White House. He didn't care whether anyone was embarrassed. On behalf of the American taxpayer, he insisted that we get to the bottom of waste, fraud, and abuse.

I offer today an amendment that would establish a special bipartisan committee of the Senate on war, reconstruction, and contracting. Four members of the committee would be selected from the majority and three members from the minority. It would have subpoena power, and it would put a magnifying glass on the massive amounts of money being wasted, being abused, and in some cases simply being defrauded from the American taxpayer. We owe it to the American taxpayers to do this.

We have pending right now before this body another request for $82 billion. Most of that is to provide resources for the soldiers, not all of it but most of it. In addition to that, there is some $15 billion to this yet unspent for the reconstruction of Iraq. That is American taxpayers' money which is in the pipeline.

You hear about all of this waste, fraud, abuse, and the whistleblowers, and then you ask, Who is minding the store? Who is looking after all this?

Another witness testified at the hearing we held recently about a company

that went to Iraq. Two guys went to Iraq with no experience and no money. They just showed up. They wanted to be a contracting company. Guess what. They won a contract, all right. They had delivered to them $2 million in cash, and they were suddenly a security contractor at the airport. Then their employees turned whistleblowers on them. They said the company was taking forklifts, repainting them, and selling them back, and setting up front companies offshore so they could buy and sell at overinflated charges. A couple of employees turned whistleblowers and they were threatened to be killed for doing it. That company, I am told, got over $100 million in contracting in the country of Iraq.

One final point: Do you know that when the allegation was made that this contractor was ripping off the Coalition Provisional Authority, which was a U.S. creation and represented us in Iraq, the U.S. Justice Department failed to intervene under the False Claims Act because they said defrauding the Coalition Provisional Authority is not the same as defrauding the American taxpayer. There is something fundamentally wrong with that. This amendment would address that as well, by specifying that the investigation called for in this amendment should include the Coalition Provisional Authority spending.

I have the amendment at the desk. I said I offered it on behalf of my colleague, Senator DURBIN, and myself, and I hope others as we move along. I understand this is not strictly a bankruptcy amendment, but we must waste no more time to establish a committee by which there is real oversight in the matter of contracting abuses that waste billions of dollars of the American taxpayers' money.

Mr. BYRD. Mr. President, will the distinguished Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. BYRD. Actually, the question will be very easy to answer. But for the moment, I must say to the very distinguished Senator that this is one Senator who is not at all surprised at what he found. I can remember when we had Mr. Bremer before the Senate Appropriations Committee to be heard. I asked him, after a while during which he delivered testimony and answered questions, if he would be able to remain or come back before the committee for some additional questions—meaning the same day—if the chairman should ask him to do so. His answer was, ''I am too busy.''

I came back to our caucus on that day, and I believe he came to the caucus at the same time. I told this to my caucus while Mr. Bremer was there. It was a shocking thing to me—an individual claiming he is too busy, and yet he is asking for quite a great amount of money to be appropriated, $2 billion.

I am not at all surprised at this. I believe as time goes on we will find more and more of these kinds of stories. I congratulate the distinguished Senator on the excellent work he is doing in bringing these things to light.

Now the question: Will the distinguished Senator add me as a cosponsor to his amendment?

Mr. DORGAN. Mr. President, I would be happy to do so.

Mr. President, I ask unanimous consent that the Senator from West Virginia be added as a cosponsor.

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

Mr. BYRD. I thank the Senator.

Mr. DORGAN. I thank the Senator from West Virginia.

I see the hour of 3:25 has arrived. I believe by a previous order we have other business. I appreciate the opportunity to offer my amendment, and hopefully we will have a vote on it at some point in the future.

AMENDMENT NO. 38

Mr. President, I ask for the yeas and nays on the Durbin amendment.

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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 40, nays 58, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—40

Akaka	Durbin	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Harkin	Obama
Bingaman	Jeffords	Pryor
Boxer	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Collins	Lautenberg	Sarbanes
Conrad	Leahy	Schumer
Corzine	Levin	Stabenow
Dayton	Lieberman	Wyden
Dodd	Lincoln	
Dorgan	Mikulski	

NAYS—58

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Bennett	Ensign	Roberts
Biden	Enzi	Santorum
Bond	Frist	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Smith
Burns	Gregg	Snowe
Burr	Hagel	Specter
Carper	Hatch	Stevens
Chafee	Hutchison	Sununu
Chambliss	Inhofe	Talent
Coburn	Isakson	Thomas
Cochran	Johnson	Thune
Coleman	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

NOT VOTING—2

Feingold	Inouye

The amendment (No. 38) was rejected.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 40

Mr. PRYOR. Mr. President, I ask unanimous consent that the pending amendment be set aside and I call up amendment No. 40.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 40.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Fair Credit Reporting Act to prohibit the use of any information in any consumer report by any credit card issuer that is unrelated to the transactions and experience of the card issuer with the consumer to increase the annual percentage rate applicable to credit extended to the consumer, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. LIMITATION ON USE OF CONSUMER REPORTS.

(a) IN GENERAL.—Section 604(d) of the Fair Credit Reporting Act (15 U.S.C. 1681b(d)) is amended to read as follows:

''(d) LIMITATION ON USE OF CONSUMER REPORT.—

''(1) IN GENERAL.—A credit card issuer may not use any negative information contained in a consumer report to increase any annual percentage rate applicable to a credit card account, or to remove or increase any introductory annual percentage rate of interest applicable to such account, for any reason other than an action or omission of the card holder that is directly related to such account.

''(2) NOTICE TO CONSUMER.—The limitation under paragraph (1) on the use by a credit card issuer of information in a consumer report shall be clearly and conspicuously described to the consumer by the credit card issuer in any disclosure or statement required to be made to the consumer under this title.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 604(a)(3)(F)(ii) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)(3)(F)(ii)) is amended by inserting ''subject to subsection (d),'' before ''to review''.

Mr. PRYOR. Mr. President, I offer my amendment because I want to address a practice in the credit card industry. Basically, what happens with some card companies—and not all of them, certainly—is they make it a practice to look at their cardholders' credit reports on a monthly basis. When they find that the cardholder has a late payment maybe on a utility bill, or a car note, or whatever the case may be, they will actually raise the interest rate on the cardholder, even though they may have made every credit card payment on time. They use that as a justification to raise the interest rate on the cardholder.

I think that is an unfair practice. It is fraught with all kinds of problems, including the problem that many of these credit reports contain errors. I

have certainly been subject to those. I am sure almost every Senator in this Chamber has been subject to an error on their credit report at one time or another. The credit card companies don't take that into consideration. They will routinely increase interest rates. I think it is an unfair business practice.

We are talking about bankruptcy. We all know that one of the main reasons people get into financial trouble is because they have credit cards. Sometimes they abuse them. Sometimes the interest rate is so high that it creates great difficulty on our citizens.

I think this amendment is important. I think it is one we can certainly justify, and I think it is one that, if people take a look at it, they would think this is a bad industry practice and this is a way to, hopefully, decrease the number of bankruptcies and the number of families in America who get into financial trouble, if some of these hidden methods of increasing interest rates are taken away.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 48

Mr. SPECTER. Mr. President, I have sought recognition to support a technical amendment, which I send to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 48.

The amendment is as follows:

(Purpose: To increase bankruptcy filing fees to pay for the additional duties of United States trustees and the new bankruptcy judges added by this Act)

On page 194, strike line 13 and all that follows through page 195, line 22, and insert the following:

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) For a case commenced under—

''(A) chapter 7 of title 11, $200; and

''(B) chapter 13 of title 11, $150.''; and

(2) in paragraph (3), by striking ''$800'' and inserting ''$1000''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''75 percent''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b)'' and all that follows through ''28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES' SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

Mr. SPECTER. Mr. President, this amendment, as I have noted, makes a technical correction to ensure that the bill does not violate our budget laws. It has come to my attention that the bankruptcy bill could draw a potential point of order because of two provisions in S. 256.

The first provision is section 1223 of the bill, which authorizes the creation of 28 new bankruptcy judgeships. According to the CBO's most recent cost estimates for S. 256, these new judges will account for $45 million in direct Federal spending over a 10-year period. Specifically, the mandatory spending would be earmarked for the judges' pay and benefits.

The second provision subject to this amendment, section 325, addresses the filing fees for bankruptcy and amounts that are directed to a trust fund that compensates bankruptcy trustees. Under current practice, a percentage of bankruptcy filing fees paid by a debtor is allocated to a trust fund that compensates bankruptcy trustees, while the remaining percentage of the filing fee is paid into the Treasury and counted as Federal revenue.

Section 325 of the bill, however, will now increase the allocation percentages from the filing fees that are directed to the trust fund. But because the bill's percentage increase will result in a corresponding decrease of Federal revenue, CBO has reported this provision will result in a net revenue loss for the Treasury. Specifically, the Congressional Budget Office estimates the revenue loss at $226 million over 5 years, $456 million over 10 years.

After reviewing this matter with the Budget Committee, we are proposing through this amendment to offset the direct spending from the judgeships and revenue losses from the section 325 percentage by increasing the bankruptcy filing fees in chapters 11 and 7.

The amendment also tries to limit revenue losses by sunsetting after 2 years the increased allocation percentage measure in sections 325(b) and 325 (c). By doing so, we estimate that the bill will provide sufficient offsets to cover the potential budgetary problems facing this bill.

Specifically, the amount of the increased filing fees that is greater than the amount that would have been collected, but for this legislation, is earmarked towards the payment of salaries and benefits for the judges. The remaining amounts from the increased filing fees are also used to offset the Federal revenue loss caused by section 325 for the 2 years that the provision stays in existence. I believe this amendment represents the best way of creating offsets within the bill. It will obviate the need to strike the bankruptcy judgeships provision altogether and, most importantly, allow this bill to survive a potential budget point of order.

To the extent there are concerns that the increase in bankruptcy filing fees will make it more difficult for financially strapped debtors to use chapter 7, let me remind my colleagues that I pushed for an amendment in committee during the 105th Congress to give bankruptcy courts the discretion to waive filing fees for lower income debtors. The committee accepted that amendment and it is now embodied in section 418 of the bill.

This amendment removes a significant procedural obstacle that could jeopardize the prospect of this bill's passage in the Senate. As such, I urge my colleagues to support this amendment.

What this all boils down to is we need new bankruptcy judges. We have to pay their salaries and their health benefits, and we do not want to run afoul of the budget laws which would strike down the entire bill unless we got 60 votes.

Mr. President, in the absence of any other Senator seeking recognition, 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. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 49

Mr. DURBIN. Mr. President, I ask unanimous consent to set aside the pending amendment, and I send an amendment to the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 49.

Mr. DURBIN. 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 protect employees and retirees from corporate practices that deprive them of their earnings and retirement savings when a business files for bankruptcy)

On page 499, strike line 3 and all that follows through page 500, line 2, and insert the following:

SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

(a) FEDERAL FRAUDULENT TRANSFER AMENDMENTS.—Section 548 of title 11, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking ''one year'' and inserting ''4 years'';

(B) in subparagraph (A), by striking ''or'' at the end;

(C) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(C) made an excess benefit transfer or incurred an excess benefit obligation to an insider, if the debtor—

''(i) was insolvent on the date on which the transfer was made or the obligation was incurred; or

''(ii) became insolvent as a result of the transfer or obligation.'';

(2) in subsection (b), by striking ''one year'' and inserting ''4 years''; and

(3) in subsection (d)(2)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(E) the terms 'excess benefit transfer' and 'excess benefit obligation' mean—

''(i) a transfer or obligation, as applicable, to an insider, general partner, or other affiliated person of the debtor in an amount that is not less than 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the calendar year in which the transfer is made or the obligation is incurred; or

''(ii) if no such similar transfers were made to, or obligations incurred for the benefit of, such nonmanagement employees during such calendar year, a transfer or obligation that is in an amount that is not less than 25 percent more than the amount of any similar transfer or obligation made to or incurred for the benefit of such insider, partner, or other affiliated person of the debtor during the calendar year before the year in which such transfer is made or obligation is incurred.''.

(b) FAIR TREATMENT OF EMPLOYEE BENEFITS.—

(1) DEFINITION OF CLAIM.—Section 101(5) of title 11, United States Code, is amended—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by inserting ''or'' after the semicolon; and

(C) by adding at the end the following:

''(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))), including an employee stock ownership plan, for the benefit of an individual who is not an insider, officer, or director of the debtor, if such securities were attributable to—

''(i) employer contributions by the debtor or an affiliate of the debtor other than elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon; and

''(ii) elective deferrals (and any earnings thereon) that are required to be invested in such securities under the terms of the plan or at the direction of a person other than the individual or any beneficiary, except that this subparagraph shall not apply to any such securities during any period during which the individual or any beneficiary has the right to direct the plan to divest such securities and to reinvest an equivalent amount in other investment options of the plan;''.

(2) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(B) by redesignating paragraphs (6) and (7), as redesignated by section 212, as paragraphs (7) and (8), respectively;

(C) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh'';

(D) in paragraph (8), as so redesignated, by striking ''Seventh'' and inserting ''Eighth'';

(E) in paragraph (9), as so redesignated, by striking ''Eighth'' and inserting ''Ninth'';

(F) in paragraph (10), as so redesignated, by striking ''Ninth'' and inserting ''Tenth''; and

(G) by striking paragraph (5), as redesignated by section 212, and inserting the following:

''(5) Fifth, allowed unsecured claims for contributions to an employee benefit plan—

''(A) arising from services rendered before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

''(B) for each such plan, to the extent of—

''(i) the number of employees covered by each such plan multiplied by $15,000; less

''(ii) the aggregate amount paid to such employees under paragraph (4), plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

''(6) Sixth, allowed claims with respect to rights or interests in equity securities of the debtor, or an affiliate of the debtor, that are held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) and section 101(5)(C) of this title), without regard to when services were rendered, and measured by the market value of the stock at the time the stock was contributed to, or purchased by, the plan.''.

Mr. DURBIN. Mr. President, this is the bankruptcy reform bill. It is about 500 pages long. If I went to Illinois and asked the people I represent what they think we should do when it comes to bankruptcy, I am virtually certain that the first thing they would say to me is, you have to do something about these horrible corporate bankruptcies, Enron, WorldCom, and the list goes on, and the abuses which these officers and CEOs have demonstrated as heads of these corporations, the fact that because they were feathering their own beds when their companies went bankrupt, hurting shareholders, hurting employees, hurting investors in pension plans, and hurting retirees.

I think my constituents in Illinois are right. When it comes to bankruptcy, that is the scandal in America. We read about it every day. There is another criminal trial. Somebody is on trial because of corporate malfeasance that lead to bankruptcy. It is going on right now.

When one takes a look at this 500-page bill, how many pages in this bill address corporate bankruptcies? Five. Ninety-nine percent of this bill hardly relate to corporations at all. Ninety-nine percent relates to individuals and families who, through no fault of their own, in most circumstances, are crushed by debt and go to bankruptcy court. Ninety-nine percent of this bill relates to bankruptcies of people who have a medical diagnosis they never anticipated and end up in treatment incurring medical expenses that their health insurance does not cover. That is almost half of the cases in bankruptcy court.

So this bill is designed to make the bankruptcy process more difficult for those individuals and families to get out from under their debt. That is what this is about. So that at the end of the day, when we pass this legislation—and surely we will—the credit card companies and the banks will end up keeping people in debt longer. So that people facing a crushing debt, when all is said and done, will not be able to walk out of that court, having been declared bankrupt, and start their lives again. That is what this bill addresses.

My amendment goes to the 5 pages about corporate bankruptcy. I believe this: If we are going to hold Americans and families to a high moral standard, if we are going to say to them that before they go into a bankruptcy court, pay their bills and prove to the court that they cannot pay their bills before we let them off the hook, if we are going to say that it is immoral and unjust for someone to go into a bankruptcy court and ask to be declared bankrupt and leave their bills and assets behind, if they, in fact, can pay, then fair enough.

But my amendment says, if we are talking about justice and high moral standards, should we not also talk about these corporate CEOs and insiders? Should they not be held to a high moral standard? Should they not be held to the standard of justice? Sadly, this bill does not do it.

When a corporation files for bankruptcy, their workers are left standing at the back of the line behind all the other creditors. Many of them lose their retirement savings, health care benefits and opportunities to get back to work and back on their feet.

The story of Bethlehem Steel Corporation is a good illustration. After years of decline in the steel industry, Bethlehem Steel dissolved in January of last year. Along with the end of Bethlehem Steel, 95,000 retired steelworker employees, who literally helped build America, lost the health care benefits they were promised. These are workers who, at the expense of their own health, went to work every day, played by the rules, paid into their pension plans, anticipated their health care, and yet because of the bankruptcy of Bethlehem Steel they were

left unprotected. They lost their pension. They lost their benefits. They have nothing.

The problem is not limited to just steel companies. WorldCom, a telecommunications company; Adelphia, a cable company; PG&E and Enron, energy companies; Conseco, an insurance company; Financial Corporation of America and HomeFed, banks; United Airlines, U.S. Airways, TWA, all in the transportation business; Texaco, K-Mart, Polaroid, household names. These are some of the once great corporate giants that ended up in bankruptcy. They employed hundreds of thousands of Americans, but once the companies filed for bankruptcy, their employees were left with nowhere to turn.

This bankruptcy bill does not even talk about those bankruptcies and those employees and the problems that they face.

Many of the companies that filed for bankruptcy over the past few years are also associated with world-class scandals: Global Crossing, WorldCom, Adelphia, and, of course, the granddaddy of them all, Enron. Those corporate giant names are synonomous with corruption, malfeasance, and greed; they are synonomous, from my point of view, with immoral corporate conduct and unjust treatment of their shareholders, workers, and retirees.

It is even more painful to think that while the workers and retirees of these scandal-tainted companies were left with little more than their dignity, the corporate executives and the insiders escaped with their treasures.

When companies are headed for bankruptcy, the corporate insiders know it is going to happen long before the worker out in the plant, and that is especially true when these same insiders are cooking the books. They know where the corporate loot is hidden, and they are going to get their hands on it when they can.

One might say that as soon as he saw the tip of the iceberg far ahead of the ship, the captain of the Titanic sneaked out on the deck, jumped in the lifeboat, went overboard with food, water, and life-vests, and left everybody else behind. That is what happened. Bon Voyage!

Let me describe a case study of the worst: Enron. This is the poster child for corporate corruption.

Enron of Houston, TX. During the 1990s, Enron was the envy of every executive in corporate America: creative, aggressive, growing fast, money coming in hand over fist, Fortune 500's top 10 list of assets with close to $100 billion, and doing business in far-flung reaches of commerce.

By the year 2000, Enron stock had increased in value by 1,700 percent since its first shares were issued in the 1980s. It had 21,000 employees in the United States and all around the world.

But not everything was coming up roses for Enron. Behind the glass walls of the corporate skyscraper in Houston, something very opaque was going on.

Listen to these famous names: Ken Lay, Jeff Skilling, Andrew Fastow. The company's top three executives obviously realized their astronomical success was not based on reality or truth. It was based on hype, speculation, and deceit. It was all smoke and mirrors.

Wall Street analysts later were forced to admit that they made out-of-control valuations of this company based on the puffery of these corporate bandits. All the while, these executives cooked up ingenious schemes to move assets on and off the books, create phony partnerships, offshore accounts, and so-called ''special purpose entities.''

These were just corporate accounting tools designed to move around assets on paper. Why would they do that if they had nothing to hide? Ken Lay, Jeff Skilling, Andrew Fastow, and others at Enron were undeniably the masters of manipulation.

We talk in this bankruptcy bill about what we are going to do with people who are abusing the bankruptcy court. This bill addresses the waitress with a second part-time job who is a single mother raising a couple of children who just was diagnosed with breast cancer and ends up with medical treatment and bills she cannot pay. She is forced finally to go to bankruptcy court.

This bill says, we are going to take care of her. In this bill we will give her a long list of things to do to prove that she is not taking advantage of the bankruptcy court.

But when it comes to these smoothies—Ken Lay, Jeff Skilling, and Andrew Fastow at Enron, and other corporations—this bill is silent. We are for morality when it comes to working families. Obviously, we are not for morality when it comes to these corporate cheats.

They kept the perception up at Enron that they were making money even when they were not, but eventually it fell apart.

On October 16, 2001, Enron reported a third-quarter loss of $618 million and shareholder equity loss of $1.2 billion. The date October 16, 2001, is important. A week later, on October 22, the Securities and Exchange Commission announced an inquiry into the company.

On November 8, 2001, Enron filed an amendment to its financial report revising its income back 4 years to 1997, 4 years of lies, it turns out, once they were caught. They came forward and disclosed $586 million in losses, and obviously investor confidence and their stock values cratered.

The next day Ken Lay entered into a deal with Dynergy Corp. to sell Enron for $10 billion, in a desperate attempt by him to keep that company afloat. A few days later he was forced to admit that Enron was not worth the amount he wanted to sell it for.

Naturally the deal with Dynergy was called off, and on December 2, 2001, Enron filed for bankruptcy.

Let me tell you what happened to two groups of Enron employees during the last few weeks of the company's solvency.

Here is Mr. Lay. Everybody knows his face now. CEO Ken Lay is the man who made over $200 million from Enron stock, and $19 million in bonuses. Other executives in the Enron Corporation received bonuses as high as $5 million. While that was going on, while the company was heading toward a bankruptcy, there were over 5,000 employees who lost their jobs and thousands more who lost millions in retirement savings.

Our bill goes after the employees who lost their jobs. Our bill goes after the employees who lost their health care. Our bill goes after retirees who ended up penniless and were forced into bankruptcy court. We are going to get real tough on them.

But how about Mr. Lay? What price is he going to pay for his misconduct? In this bill, no price at all. Everyone knows about Ken Lay's extravagance.

I won't venture to assert whether Ken Lay had any actual insight or knowledge which he took advantage of insider information as he made sales of stock he held in Enron. Those are decisions for a judge and jury.

But what is certain is that Ken Lay pocketed $81.5 million in loan advances from his company while Enron was cascading toward bankruptcy—$81.5 million for this man who couldn't run his company correctly. All told, he received over $200 million in Enron stock and $19 million in bonuses.

During the same time Jeff Skilling raked in $66.9 million.

The board of directors was sharing in these good times as well. Sixteen members of the corporate board made a combined total of $164 million, just on selling shares they had in the company. If you add all the other corporate insiders and executives at Enron with the corporate directors and all the amounts they pilfered from the company from 1998 to 2001, the grand total comes to well over $1 billion.

Now let's see how the employees at Enron fared.

There is an old country song by Jerry Reed called, ''She Got the Goldmine, I Got the Shaft.'' It could be the theme song for Enron workers.

Of the 21,000 people worldwide who worked for Enron, 12,200 were enrolled in their pension plan. Over 60 percent of the assets in the plan invested in Enron stock and all of Enron's matching contributions went into company stock as well. But the Enron stock, which once sold as high as $90 during its heyday, became worthless. The workers' losses were aggravated during the course of the weeks when they were locked out of the pension plans and could not even sell the stock as the value of the stock was cratering.

Under Federal law, companies are not allowed to let their employees withdraw their investment while the company switches pension plan administrators. And wouldn't you know it,

Enron chose to switch their plan administrator on October 16, 2001.

Remember that date? That's the very same date I mentioned earlier, when they announced they were writing off more than $1 billion in charges to their books. This meant that thousands of employees sat by helplessly and watched their retirement plan literally disappear before their eyes.

On October 18, 2001, while Enron workers were frozen out of amending their pension plan, the stock price was down to $32 a share. By the time the hurricane blew over and they finally could get to their funds, Enron stock value plummeted to 26 cents per share. Needless to say, the company went into bankruptcy. The employees at Enron could do nothing but sit by and watch their savings melt away during that time.

Thousands of these employees lost their jobs as a result of the Enron bankruptcy. Hundreds, perhaps thousands, were forced into bankruptcy themselves. But during the months and years that led up to this disaster, 29 Enron insiders and top execs walked away with over $1 billion.

I have talked to some of these Enron executives. There is no good explanation. Sadly, this legislation on bankruptcy we are discussing today will not hold them accountable.

Let me give another case study: Polaroid. This is a company that many of the people in Congress from Massachusetts know all about. It filed for chapter 11 protection on October 12, 2001, just a couple of months before Enron did.

Let me show you the chart on Polaroid. CEO Gary DiCamillo ran the company into the ground but received $1.7 million. Other executives got $4.5 million. Over 6,000 employees lost health and life insurance, and thousands lost severance pay. Forced to invest 8 percent of their pay in company stock, they lost their retirement savings, too.

So these corporate insiders—whether Enron or Polaroid or WorldCom or others—were lining their own pockets, taking money out of the company destined for bankruptcy, and the ultimate losers were the employees and the retirees.

The amendment which I sent to the desk is an attempt to level the playing field for employees, pensioners, and others who find themselves shut out of court when companies they work for file for bankruptcy.

There are two provisions in this amendment to protect employees of bankrupt companies.

First, my amendment would address fraudulent transfers made by corporate insiders, all those huge payouts and loans and bonuses and transactions that went to these corporate executives as the company was headed to bankruptcy, these are payouts that exceed anyone's sense of what is reasonable compensation. Under my amendment, those payouts will have to be scrutinized by the bankruptcy court.

Think about that for a minute. These executives were being rewarded with millions, sometimes hundreds of millions of dollars out of corporations headed for bankruptcy.

Most of the time, you are rewarded with a bonus for a good job. They are being rewarded as their company is heading into debt and eventually disbanding. So they know what is going on. They are grabbing the money before they hit bankruptcy court. The money they grab out of the corporation is at the expense of people who loaned money to the corporation, especially at the expense of their workers and retirees. They end up taking the money that otherwise would have gone into the pension funds and putting it in their own pockets.

My amendment gives the bankruptcy court the tools to investigate and treat these fishy, self-serving deals Ken Lay and Jeff Skilling and Andrew Fastow and others at Enron cut for themselves. It gives the judge the power to review questionable insider transfers. That is only reasonable.

It includes a fair and workable formula for what the court can determine might be excessive.

It also extends the period of time a bankruptcy court can go back and recapture the assets of these executives, a 4-year reachback instead of the 1 year allowed under current law and the 2 years proposed in this bill.

As I described in the Enron example, some of the most outrageous transactions by the Enron executives took place 3 or 4 years before the company filed bankruptcy, so this bill would not even touch them. This bill lets those corporate insiders end up in their mansions with hundreds of millions of dollars squirreled away at the expense of the retirees who lost their pensions and their health care. By recapturing these assets, this provision would make more money available for employees and retirees and act as a deterrent to future corporate executives seeking the same sort of sweetheart deal.

But this is not all about Enron. Let me give you other examples in the headlines today.

WorldCom CEO Bernie Ebbers. He took $366 million in personal loans and his contract called for a $1.5 million yearly pension. Not bad. Mr. Ebbers ought to be proud. His skills and talents as CEO took his company, WorldCom, into the record books as the largest bankruptcy in the history of the United States. While he is grabbing all of the money out of the corporation, it is sinking like a rock.

John Jenkins, the former president of Global Crossing. He took more than $1 million in pension benefits—something called ''transitional assistance,'' consulting fees, and other benefits, as his company was spiraling downward.

Let us take a look at Kmart and its CEO, Chuck Conaway. As Kmart was falling apart, eventually becoming the largest American retailer to file bankruptcy, Mr. Conaway received a $9 million golden parachute. About one-half of it was a severance package. But his former employer decided to give him a little break as he left this bankrupt corporation. A $5 million loan was forgiven. Talk about a Blue Light Special at Kmart, this one takes the cake.

John Rigas of Adelphia Communications took about $1 million per month from the company while he and others used it as their personal piggy bank. According to the indictment from the U.S. Attorney, the Rigas family used company loans to buy Adelphia shares and engage in insider transactions between Adelphia and other companies controlled by the Rigas family. Here is one example of how they fared. Rigas and his sons used $2.3 billion in off-balance-sheet loans from the company to build themselves a private 18-hole golf course at the cost of $13 million. Not bad for a cable guy. He raided his corporation for $2.3 billion at the expense of shareholders and retirees.

What does this bill do to that kind of corporate bandit? Nothing. This bill focuses on the employees who lost their jobs. This bill focuses on the retirees who lost their health care and their pension. This bill makes it tough for them.

This is inspired by our feeling that we need more morality and justice in our bankruptcy courts. But wouldn't you start at the top? Wouldn't you start with the biggest thieves in the business—the people who broke a record when it comes to bankruptcy and raiding these corporations?

These insiders knew what they were doing. They saw their companies going down, and they grabbed everything they could get their hands on. They canceled their workers' pension plans and benefits.

My amendment says we would go back 4 years before the bankruptcy to recover that money and put it in the hands of creditors, employees, and retirees.

The second part of my amendment directly helps employees of these companies with some relief in bankruptcy court. This gives them a place in line as creditors that they currently don't have.

The amendment gives them a priority unsecured claim in bankruptcy for the value of company stock which was held for their benefit in an employee pension plan, unless the plan beneficiary had the option to invest the assets in some other way.

Under current law, these retirees who ended up with the short end of the stick in these retirement plans have nowhere to turn. They are not even in line in priority for these claims. My amendment would fix that.

The amendment determines the value of these claims to be measured by the market value of the stock at the time it was contributed to the plan.

In other words, the employee who was not at fault in the collapse of his employer corporation ought to have a fair claim for the fair value of his contribution to his pension plan as it was

valued when he made that contribution. That's only fair.

My amendment is simple, yet necessary. I urge my colleagues to support it.

In conclusion, I am proud of the support of the groups behind this amendment—the U.S. Public Interest Research Group, the National Consumer Law Center, Consumers Union, Consumer Federation of America, Consumer Action, AFL–CIO, United Auto Workers, United Steel Workers of America, and the American Federation of Teachers.

I ask unanimous consent to have their letters of support printed in the RECORD.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, March 3, 2005.

DEAR SENATOR: The bankruptcy-reform bill currently before the Senate will result in severe injustice to thousands of workers and consumers and we urge you to oppose it. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (S. 256) is basically unchanged from the version drafted by the financial services industry in the mid-1990s, It remains a one-sided attempt to favor creditor interests at the expense of working families who have suffered the loss of a job, high medical bills, and other unforeseen financial emergencies. Senators Rockefeller, Kennedy, Durbin and Feingold will offer amendments to improve this bill, and we urge you to support them.

Supporters of S. 256 suggest that the current system is riddled with ''high rollers'' who are gaming the system to get out of paying their fair share. To the contrary, studies suggest that 90% of these filing for bankruptcy do so because of circumstances largely outside their control. In recent years, business failures and mass layoffs resulting from corporate fraud have lead to innumerable individual bankruptcies, Rather than correcting deficiencies in current law that fail to protect workers in these circumstances, the bill places new burdens on working families when they are most vulnerable.

We strongly support Senator Rockefeller's amendment to raise the current wage priority cap from $4,950 to $15,000 because the amounts owed to workers frequently exceed the per employee cap. Senator Rockefeller's amendment would also eliminate arbitrary payment rules that prevent workers from collecting compensation owned to them by a bankrupt employer. Importantly, Senator Rockefeller's amendment will compensate workers who lose retiree health benefits by requiring bankrupt companies to provide cash payments for replacement coverage.

The AFL–CIO also urges you to support amendments that will he offered by Senator Kennedy to protect low-income families from means testing and unnecessary paperwork and to protect workers who declare bankruptcy after becoming unemployed because of outsourcing or a mass layoff.

We also support Senator Feingold's amendment to remove provisions that impose substantial new requirements on small businesses attempting to reorganize under Chapter II. There is no justification for increasing the hurdles that small businesses already face in trying to survive financial distress.

Finally, we urge you to support amendments that will be offered by Senator Durbin to restrain bankrupt employers from rewarding corporate insiders and other senior managers with large bonuses and excessive perks at the same time that their employees suffer economic devastation from the loss of a job or their savings in a company 401(k).

In sum, S. 256 is an unnecessarily harsh and one-sided bill that will penalize countless working Americans facing financial crises beyond their control. The AFL–CIO strongly urges you to support the abovementioned amendments to this deeply flawed bill.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

MARCH 2, 2005.

Hon. RICHARD J. DURBIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURBIN: The undersigned national consumer organizations applaud you for offering amendments to the Senate bankruptcy bill (S. 256) that would better protect employees and retirees in the event of a corporate bankruptcy. The inclusion of these amendments will bring much-needed balance to a harsh and one-sided bill that would harm many families that have suffered genuine financial misfortune.

The raft of corporate scandals in the last few years has exposed many flaws in a system of market oversight that used to be the envy of the world. Many investors lost faith in our markets, tens of thousands of employees lost their jobs and workers and retirees have lost significant portions of their pension plans.

It is essential that Congress take a comprehensive approach to reform. The Sarbanes-Oxley Act to reform corporate accounting practices took an important first step. It is bringing much needed improvements to the quality and independence of the audits of public companies and help to restore investor confidence. But this law was never intended to give employees and retirees more power to combat the tactics of corporate officers who systematically loot their corporations and line their pockets, even as their companies' financial position starts to deteriorate. To do that, one must change corporate bankruptcy laws.

These amendments will help employees and retirees prevent corporate officers from pillaging their earnings and retirement savings in two of important ways:

It increases the power of bankruptcy judges to nullify fraudulent transfers of benefits and money by corporate officers, and to examine off-book transactions. This will increase the ability of employees to recover assets that have been stripped.

It increases the ability of employees to recover the value of company stock, when the stock was purchased because employees were not allowed to choose other investment options.

These amendments are the important ''next step'' in reforming our corporate accountability laws. It is being introduced at a time when Congress is poised to pass a personal bankruptcy law that will make it more difficult for moderate-income individuals who have been harmed by economic disruption, corporate scandals and personal misfortune to get a financial fresh start. We commend you for focusing on the kind of bankruptcy reform that will help, not hurt, employees, retirees and working families.

Sincerely,

TRAVIS B. PLUNKETT,
Legislative Director, Consumer Federation of America.
EDMUND MIERZWINSKI,
Consumer Programs Director, U.S. Public Interest Research Group.
SUSANNA MONTEZEMOLO,
Policy Analyst, Consumers Union.
LINDA SHERRY,
Editorial Director, Consumer Action.
JOHN RAO,
Staff Attorney, National Consumer Law Center.

Mr. DURBIN. Mr. President, these groups and their members know what happened with these companies.

I am troubled by the fact that the Senate has spent this entire week talking about bankruptcy abuse and making it tough for families trying to pay medical bills, making this process more difficult for the guardsmen and reservists who were activated to go overseas to serve our country only to lose their business at home and face bankruptcy when they return.

There is nothing in this bill to help them. There is nothing in this bill to help them with medical bills.

Senator KENNEDY was here on the floor yesterday. He had an extreme suggestion, a radical idea. Senator KENNEDY said, if you lose everything because of medical bills, we are going to protect your little home—$150,000 worth of your home—so that when it is all said and done, as sick as you may be, you will at least have a home. But that proposal was rejected. I am not sure of the vote on that amendment, 58–39, somewhere in that range but a partisan vote. Everyone on this side—virtually everyone—voted against it.

According to that vote, we can't help those people. They have to face the reality. They have to face up to the fact they won't have a home to go to when it is all over.

But what about the mansions these CEOs go to, the millions of dollars they have drained out of these corporations for their own personal benefit to buy mansions, to buy golf courses, to create a lifestyle with $30,000 shower curtains? Are we going to hold them accountable for raiding these corporations and driving them into bankruptcy? The answer is no. Not a word in this bill holds them accountable.

I urge my colleagues. If you can work up a rage over the possibility that someone with medical bills that are overwhelming goes to bankruptcy court seeking relief from their debts, can you work up a little bit of discomfort over these CEOs and bandits of the major corporations? Can you bring yourselves to say maybe we will hold them accountable, too, for their misconduct?

It would be a new day in this Senate, a grand departure from the debate as it has gone down at this point. We have never come close to this yet. I haven't heard a word yet from the other side—not a word on this floor by the supporters of this bankruptcy bill about these corporate bankruptcies and what they have done to hundreds of thousands, if not millions, of unsuspecting investors, workers, and retirees.

The Durbin amendment will give my colleagues a chance to do something about it.

I urge my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I be permitted to speak as in morning business.

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

(The remarks of Mr. LAUTENBERG are printed in today's RECORD under ''Morning Business.''

Mr. LAUTENBERG. I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Massachusetts is recognized.

AMENDMENT NO. 49

Mr. KENNEDY. Mr. President, this legislation that we have before us cracks down unfairly on large numbers of hard-working families that are in dire financial straits because of a sudden serious illness or because their loved ones are fighting in Iraq. Yet, this bill blatantly ignores the real abuses in our bankruptcy laws: the corporate abuses that have become epidemic in recent years. It is the worst corporate misconduct since before the Great Depression.

Some of these companies were brought down by outright criminal activities. Many more of them were driven into bankruptcy by the greed and mismanagement of a small group of reckless insiders who ignored their responsibility to their employees and their stockholders alike.

Current law on corporate bankruptcy is grossly inadequate in dealing with these problems. Often, the very insiders whose misconduct brought the company down do very well in bankruptcy. The people who suffer the most are the innocent victims, the employees, the retirees.

Increasingly, the bankruptcy court has become a place where corporate executives go to get permission to line their own pockets and break their promise to their workers and retirees. That kind of abuse is terribly wrong, and it is our responsibility to prevent it.

Instead, we are considering a 500-page bankruptcy bill that virtually ignores this issue. It does nothing to address the corporate looting by high-level insiders. It does nothing to protect a company's workforce from losing their jobs, their health care, and their pensions. This bill should not move forward until those glaring omissions are corrected, and the Durbin amendment is the way to do it.

Take a close look at the examples of executives in some of America's largest corporations, and see how lavishly they benefitted while their companies went into bankruptcy. Top executives made sure they were well provided for at the company's expense. Yet, loyal employees and their families were left to struggle on their own.

A major corporation in Massachusetts, Polaroid, filed for bankruptcy in 2001. In the months leading up to the company's filing, $1.7 million in incentive payments were made to its chief executive officer on top of his $840,000 salary. The company also received the approval of the bankruptcy court to make $1.5 million in payments to senior managers to keep them on board. And these managers collectively received an additional $3 million when the company's assets were sold.

Yet, just days before Polaroid filed for bankruptcy, it canceled the health and life insurance benefits for more than 6,000 retirees. It also canceled the health insurance coverage for workers with long-term disabilities, and halted the severance benefits for thousands of workers who had recently been laid off.

Polaroid employees had been required to contribute to the company's Employee Stock Ownership Plan. When the company failed, their retirement savings were virtually all wiped out.

The loss was devastating for workers like Karl Farmer, a Polaroid engineer in Massachusetts for more than 30 years. He had been required, as had other Polaroid employees, to pay 8 percent of his pay into the company's Employee Stock Ownership Plan. At its peak, this stock was worth over $200,000. But after the company declared bankruptcy, the stock was worthless. And he also lost his severance pay and medical benefits.

Or take Betty Moss of Smryna, GA. Betty and her husband retired and were traveling across the country in their camper when they learned that Polaroid had stopped her severance pay and that they had lost her health insurance and life insurance. Because of the fall in Polaroid stock, her retirement savings plunged from $160,000 to only a few hundred dollars.

The loss of health insurance and life insurance benefits was particularly devastating for long-term disabled workers. With their disabilities, they cannot go back to work, and they have no way to obtain other insurance coverage.

Sally Ferrari of Saugus, MA, was diagnosed with Alzheimer's disease after working for Polaroid for 20 years. In recent years, she required round-the-clock care. Yet, Polaroid cut off her health care benefits in bankruptcy, which meant that her husband had to stay at work full time until he recently passed away in order to provide medical coverage for his wife.

I also have letters from other employees.

This letter is from David Maniscalco. He was injured while working for Polaroid. Now he is unable to work, and his medical bills are consuming his family's savings and his retirement because Polaroid took away total health care coverage. He points out:

After Polaroid declared bankruptcy, they terminated all the people on long term disability, and terminated all of our Medical, Life and Dental Insurance. I wear a fiberglass back brace and sleep in a hospital bed and am not able to work. My wife changed jobs in order to have medical insurance for herself. And I am on Medicare and a secondary insurance. The cost to us is $895.00 a month for medical insurance alone. The problem is, we're using our retirement money to help with the cost of our medical insurance.

Here you have the corporate officials well taken care of, and the loyal employees were notified with less than 24 hours. And this is how they end up. How? Because they go to bankruptcy court. Does this bill do anything about protecting those individuals? Absolutely zero. Absolutely nothing. Absolutely nothing.

We have here a letter from Elaine Johnson. She lost a lung to cancer. When Polaroid went into bankruptcy, she lost her health insurance, too. She writes:

When Polaroid declared bankruptcy, I lost my life insurance, medical and dental insurance. Because of my disability, I'm unable to get other insurance and another job.

Once you have these serious illnesses, it is virtually impossible to ever get your health insurance again. I have a son who had osteosarcoma at 12 years old. He, as an individual—he is 43 years old—cannot get a health insurance policy today no matter what he is prepared to pay for it, unless he goes into some kind of group. Why? Because he had cancer at one particular time.

Here you have individuals who have disabilities who are tied into their company's program. The company has made a commitment to them. And then what happens? At the time they go into bankruptcy court, one of the first things that happens is the corporate officials free themselves from the obligations to pay the employees' health insurance, and they are left out in the cold.

The list goes on. Polaroid employees, like Betsy Williams of Waltham, MA, were financially devastated by the loss of medical and health care benefits. Betsy was with Polaroid for 28 years, and she thought, when she came down with lupus, her company's disability, health and life insurance would cover her. She writes:

When I received an unsigned letter from Polaroid Corporation in July of 2002 stating that I (along with other employees on Long Term Disability) would be terminated by the company and my medical, dental and life insurance benefits would end, I was shocked and dismayed. Unable to work because of my disabilities, my husband (who is also disabled) and I are forced to pay approximately $1,125/month for a Medicare Health plan and an additional $400–$500/month for prescription co-payments, supplies, etc.; no available dental plan, and I was only able to get 50% of my life insurance at an exorbitant rate. We now have two mortgages; our groceries are bought with a credit card; and we are holding on financially by a thread.

There it is. That is the person who is going to get burned with this bill. That is the person who is going to be marched in. That is the person who is going to be required to pay $10, $15, $20 a week, $80 a month on into the future under this bill. But do we do anything about the corporate executives? Absolutely nothing.

And the list goes on. These are hard-working people who were crushed when

Polaroid cut their benefits. Yet, while they suffered, Polaroid executives filled their pockets to overflowing.

When the chief financial officer left, she got a $600,000 pension. Recently, she received $1 million in severance pay from Royal Dutch/Shell Company, even though she left under a cloud of scandal. And Polaroid's former president is now the president and CEO of one of the country's largest staff outsourcing companies. He plans to take the company public soon and will reap enormous profits.

Enron, as my friend and colleague, the Senator from Illinois, pointed out, is another flagrant example of massive company looting while employees lost everything. Enron executives cashed out more than $1 billion of company stock when they knew the company was in trouble. And just before the company declared bankruptcy, its top executives were paid bonuses as high as $5 million each to stay on.

Enron workers, however, were forced to hold their company stock until the age of 50. They were subject to blackout periods that executives were not.

They lost a total of $1 billion in retirement savings. Thousands of them lost their jobs. Thousands lost their health insurance. Thousands of them will be dragged into bankruptcy court under this particular legislation.

Yet we have WorldCom, another shameful case. Bernie Ebbers is on trial for corporate fraud. I don't know how many Americans read the newspapers yesterday, but Bernie Ebbers is on trial. He received millions of dollars in personal loans from the company and was originally granted a pension worth $1.5 million a year. This week he denied knowing anything about the biggest accounting fraud in history. ''I don't know about technology. I don't know about financing. I don't know about accounting,'' he claimed.

What about those people I just mentioned who worked for Polaroid all their lives and because of the bankruptcy lost their health insurance, do you think they will be able to give those kinds of answers? Not under this bill.

Ordinary Americans will not have this defense when they are facing bankruptcy. Countless WorldCom employees who honestly knew nothing about the fraud wound up losing their jobs and their retirement.

Another example is the popular retailer Kmart. As Kmart was teetering on the edge of bankruptcy, the company bought two new corporate jets. Once it finally went into bankruptcy, CEO Chuck Conaway was given a $9 million golden parachute. Meanwhile 57,000 Kmart workers lost their jobs, and the company closed 600 stores.

Abuses like these have made the headlines, but this bankruptcy bill doesn't deal with them. It comes down hard on those families who have critical health bills, families who are touched by cancer and heart and stroke, families who have children with disabilities. It comes down hard on those individuals and lets these people off free. And we call that fair? Take away their homes if they live in 40-odd States, but let them keep millionaire homes in Texas and Florida. And they do nothing about it, the proponents of this bill, nothing. Call that fair? Call this bill fair?

We know what it is. It is making the various bankruptcy courts the collection agencies for the credit card companies. Mr. American Taxpayer, you are going to be paying for more bankruptcy judges and staff and buildings because there are going to be so many more people who are going to be thrown into bankruptcy. The fastest growing group of bankruptcy filers is the elderly, individuals fifty-five and older, who are being hit with increased medical costs. As I mentioned the other day, they are seeing increased premiums on Medicare—wait until they get their new prescription drug program and start paying the costs for that, which is an inadequate program that has special provisions in it that have giveaways to the HMOs and to the prescription drug companies. They are just going to end up paying more and more, Mr. American Taxpayer, to support these courts of bankruptcy, and they are going to squeeze our fellow citizens out all the more. Meanwhile other people are getting $9 million golden parachutes.

Senator DURBIN's amendment will stop the travesty of high-level corporate insiders walking away with millions of dollars in bankruptcy while workers and retirees are left empty-handed. This amendment will strengthen the ability of bankruptcy courts to invalidate fraudulent transfers by corporate insiders. The current legislation does zero, nothing. The proponents of this legislation have opposed this effort by the Senator from Illinois. This amendment will strengthen the ability of bankruptcy courts to invalidate fraudulent transfers. Currently the court can only compel the return of money improperly taken out of the company in the preceding year. In many instances the looting has taken place over a number of years, and the court has no authority to go after those lost assets. This amendment will allow bankruptcy judges to reach back as far as 4 years to recover corporate assets.

It also empowers the court to review and set aside the excess benefit transfers made to corporate management while the company was insolvent or which contributed to the company's insolvency. These sweetheart deals often take the form of huge bonuses, golden parachutes, and other payments to corporate executives before the public learns that the company is in trouble. Such payments violate the most basic principle of fiduciary duty, and the bankruptcy court should have the power to correct these wrongs. Every dollar recovered from these outrageous inside deals is another dollar that will be there to compensate workers, retirees, and other creditors.

Finally, our amendment—I welcome the opportunity to cosponsor it with the Senator from Illinois—will give a priority claim in bankruptcy to employees who are forced to invest their retirement savings in employer stock.

Polaroid workers lost their retirement because they were required to invest 8 percent of their pay in their company as a condition of holding their jobs. Workers at Enron were also forced to keep their company stock until the age of 50 and subject to blackout periods during which they couldn't sell their stock, but the company executives could. Under current bankruptcy law, workers have no way to recover from these losses. They deserve a chance to recover some of what they lost. This amendment will provide it.

The issue is simple fairness. We learned even yesterday about the new loophole, about trusts that are going to be created so those individuals who may go into bankruptcy and who have resources can go out and hire a lawyer and shelter their income from any kind of bankruptcy court. But the average worker can't do that. The average worker out there working a lifetime for a company and then dismissed, the company then goes into bankruptcy, can't do that.

They can't hold onto their homes like so many of the wealthiest individuals in our country. In Florida they will be able to do it, but they won't be able to do it in most of the other States. In Texas they can do it, but not in most of the other States. Yet here on the floor of the U.S. Senate, the Senate refused, absolutely refused to show any consideration to home ownership for people who have worked hard all of their lives, just having $150,000 in equity.

This issue is about fairness. If a corporation has gone into bankruptcy, those who ran the ship aground certainly should be not be enriched at the very time those who depend on the company for their livelihood are driven into poverty. Yet that is what happens all too often in corporate bankruptcy today. Any bankruptcy bill which fails to address these critical issues is a cruel hoax on the American people.

I urge my colleagues to support the Durbin amendment, recognizing that bankruptcy reform has to apply to corporations, too.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 42

Mr. SCHUMER. Mr. President, I rise in support of my amendment No. 42 and will call for the yeas and nays on my amendment at the appropriate time.

Mr. President, I rise to speak to my amendment to the Bankruptcy Abuse Prevention and Consumer Protection Act to close an ugly loophole that protects millionaires, while at the same time this bill will punish, among others, veterans' families and sick people with mountains of medical bills.

The front page of yesterday's business section in the New York Times ran a story on a shocking loophole in bankruptcy law that is a windfall for the wealthy, called the millionaire's loophole. Let me read to you a little bit about it. I am going to read from the New York Times here. The headline is:

Proposed law in bankruptcy has loophole; wealthy could shield many assets in trust.

The bankruptcy legislation being debated by the Senate is intended to make it harder for people to walk away from their credit card and other debts. But legal specialists say the proposed law leaves open an increasingly popular loophole that lets wealthy people protect substantial assets from creditors, even after filing for bankruptcy.

Here is the problem. In five States—Alaska, Delaware, Nevada, Rhode Island and Utah—millionaires and even billionaires can stash away their assets—whether it be a mansion, racing car, a yacht, or any kind of financial asset or investment, or even a suitcase filled with cash—in a special kind of trust, so that they can hold on to that windfall even after filing for bankruptcy. When they file for bankruptcy, these wealthy people, creditors would not be able to reach anything in those trusts. So here you have wealthy people filing for bankruptcy and yet having huge amounts of assets protected in a little trust hidden away.

The bill tries to address the infamous homestead exemption by attaching a $125,000 ceiling to it. But it doesn't matter. A millionaire doesn't need a home to protect his or her assets. All they need is a good lawyer, a pencil, paper, and one of these trusts.

As one legal expert said: With this loophole, the wealthy won't need to buy houses in Florida or Texas to keep their millions. So if anyone is manipulating the system, it is these guys. By the way, you don't have to be in these five States. All you have to do is file the trust in one of these States. My great State of New York, I am happy to say, is blessed with many millionaires. We hope there are more of them. But they should not be allowed to file in Delaware, or Utah, or Alaska a trust that allows them to declare bankruptcy and yet keep their assets. It is a basic way for wealthy people to not pay their debts.

We have heard a lot in this bill about people who gamble profligately and waste their money and declare bankruptcy. That is an abuse that the bill should, in my judgment, close. But then why are we continuing to allow it to remain in the law? It is not this bill that does it; it is in the law. But as we close those methods of using bankruptcy abusively, how can we leave this one open? This ''million dollar bankruptcy baby'' deserves an Oscar for the best legal loophole for the wealthy. This millionaire's loophole is so bad that it must be knocked out before this fight is over. There is no question that, without this amendment, the bankruptcy laws will continue to make it easier for millionaires to keep their millions than for poor people to simply stay afloat.

I hope my colleagues on the other side of the aisle will join me in that amendment. I know there seems to be some kind of edict that you cannot vote for any amendment. Can we please make an exception for this one? I am sure just about everybody agrees with us. I am joined in this amendment by my colleagues Senators BINGAMAN, DURBIN, FEINSTEIN, and CLINTON; they have cosponsored the amendment. This amendment closes this millionaire's loophole by forcing those who seek to use these trusts to cheat. It only allows them to protect as much as $125,000 in assets in these trusts and not a penny more. In other words, it makes it analogous to what we do for homes in the homestead exemption in this bill.

Again, if we don't want wealthy people to be able to hide their assets in their homes and escape the rigors of the bankruptcy law, why would we allow them to do that in trusts? To clarify, the amendment doesn't adversely affect retirees who have saved for a lifetime to build a retirement nest egg. The solution is straightforward. It is written in the spirit of the bill. In fact, when looking at statements made by some of this bill's greatest champions, you would think they would have no problem accepting this amendment in the bill.

The bill's sponsor is a good man. I am now on his committee. He is known as having a great deal of integrity. Well, here is what Senator GRASSLEY said about the bill. This was in one of his State's local papers: Filing for chapter 7 bankruptcy, he said, ''was not intended to be a convenient financial planning tool where deadbeats can get out of paying their debts scot-free, while honest Americans who play by the rules have to foot the bill.''

I agree with that statement. This amendment fits the words of Senator GRASSLEY exactly. Why would we not include this amendment in the bill? That is the essence of the amendment we have. Deadbeats exist in all tax brackets. There are some middle-class deadbeats. There are some poor deadbeats, of course. What about the wealthy deadbeats? Why are they treated differently than everybody else?

I hope my friends on the other side of the aisle, because of this grand edict ''don't vote for any amendment,'' don't end up protecting wealthy deadbeats from the same punishment they are doling out to those who are not so financially fortunate.

I have listened to my Republican friends and their concerns about the abuse of our bankruptcy system by gamblers, hustlers, and cheaters. I have listened for a number of years, and I share those concerns. But I hope my colleagues will come to the floor to vote for this amendment that will end the egregious millionaire's loophole. Make no mistake about it, I am not against millionaires and billionaires. I think it is great when an American achieves success and makes a lot of money. But don't declare bankruptcy and hide your assets and shed your debts. The people who should least be able to do this are the wealthy.

I hope my colleagues will vote for this amendment, which will end the egregious millionaire's loophole. We cannot let a few bad apple millionaires evade the system by cutting and running on their debts. This bill, I am afraid, of course, doesn't go after just the bad apples. That is an issue my colleague from Massachusetts has been ably taking up on the floor, as have many other of my colleagues. It actually labels the whole bushel of bankruptcy filers rotten.

I wish the bill made more of a distinction between those who are abusive, who gamble, or who are profligate and try to shake off their debt, and those who have run into real hardship because they are in the military or because they have health care problems. The bill makes no distinction between those two groups and that is wrong. We need to make sure the bill targets the Nation's cheats and not its cheated. I urge my colleagues to close the millionaire's loophole by voting for this amendment.

Mrs. FEINSTEIN. Mr. President, I rise today to join my colleague from New York, Senator SCHUMER, in offering an amendment which would address a serious loophole in the bankruptcy bill we are now considering it allows rich debtors to unfairly shield assets from their creditors.

In recent years a number of financial and bankruptcy planners have taken advantage of the law of a few States to create what is called an ''asset protection trust.'' These trusts are basically mechanisms for rich people to keep money despite declaring bankruptcy. They are unfair, and violate the basic principle of this underlying legislation that bankruptcy should be used judiciously to deal with the economic reality that sometimes people cannot pay their debts, but to prevent abuse of the system.

This loophole is an example of where the law, if not changed, permits, or even encourages, such abuse.

The amendment is simple: It sets an upper limit on the amount of money that can be shielded in these asset protection trusts, capping the amount at $125,000. This amount parallels the limit placed on the similar ''homestead exemption'' elsewhere in the bill. The homestead exemption allows some assets to be protected from creditors in bankruptcy where they are in the form a residential home.

The bottom line: Wealthy people will be able to preserve only $125,000 in an asset protection trust.

This amount, $125,000, is not a small sum. It is more than enough to ensure that the debtor is not left destitute. But I believe it is a reasonable amount. It is deliberately based on the now-accepted $125,000 limit for the homestead exemption, which will also remain available to a debtor.

Yesterday the New York Times, in an article entitled Proposed Law on Bankruptcy Has Loophole detailed the potential problem in this bill. The article quotes Professor Elena Marty-Nelson, a law professor at Nova Southeastern University in Florida, who states:

[i]f the bankruptcy legislation currently [before the Senate] gets enacted, debtors won't need to buy houses in Florida and Texas to keep their millions [t]he millionare's loophole that is the results of these trusts needs to be closed.

Professor Elizabeth Warren of Harvard Law School is also quoted in the article. She notes that:

[t]his is just a way for rich folks to be able to slip through the noose on bankruptcy and, of course, the double irony for her is that the proponents of this bill keep pressing it as designed to eliminate abuse.

I unanimously consent that the full text of the article be printed in the RECORD.

[From the New York Times, Mar. 2, 2005]

PROPOSED LAW ON BANKRUPTCY HAS LOOPHOLE

(By Gretchen Morgenson)

The bankruptcy legislation being debated by the Senate is intended to make it harder for people to walk away from their credit card and other debts. But legal specialists say the proposed law leaves open an increasingly popular loophole that lets wealthy people protect substantial assets from creditors even after filing for bankruptcy.

The loophole involves the use of so-called asset protection trusts. For years, wealthy people looking to keep their money out of the reach of domestic creditors have set up these trusts offshore. But since 1997, lawmakers in five states—Alaska, Delaware, Nevada, Rhode Island and Utah—have passed legislation exempting assets held domestically in such trusts from the federal bankruptcy code. People who want to establish trusts do not have to reside the five states; they need only set their trust up through an institution in one of them.

''If the bankruptcy legislation currently being rushed through the Senate gets enacted, debtors won't need to buy houses in Florida or Texas to keep their millions,'' said Elena Marty-Nelson, a law professor at Nova Southeastern University in Fort Lauderdale, Fla., referring to generous homestead exemptions in those states. ''The millionaire's loophole that is the result of these trusts needs to be closed.''

Yesterday in Washington, Republicans in the Senate beat back the first in a series of Democratic amendments aimed at softening the effects of the bankruptcy bill on military personnel, and the majority leader of the House vowed to get quick approval of the bill if the Senate did not significantly alter it.

''We will grab hold of it just like we did class action if it is a good and clean bankruptcy reform bill,'' said Representative Tom DeLay, a Texas Republican, referring to the quick action the House took last month on a measure limiting class-action lawsuits.

The Senate bill is favored by banks, credit card companies and retailers, who say it is now too easy for consumers to erase their debts through bankruptcy. It is almost identical to previous versions that have been introduced in Congress, unsuccessfully, since 1998. Perhaps because the current bill was written so long ago, some legal authorities say, it does not address the new state laws that have allowed asset protection trusts to flourish.

''This is just a way for rich folks to be able to slip through the noose on bankruptcy, and, of course, the double irony here is that the proponents of this bill keep pressing it as designed to eliminate abuse,'' said Elizabeth Warren, a law professor at Harvard Law School. ''Yet when provisions that permit real abuse by rich people are pointed out, the bill's proponents look the other way.''

Senator Charles E. Grassley, an Iowa Republican, is the main sponsor of the bankruptcy bill. His press secretary, Beth Levine, said the senator's staff was unaware of the trusts and the loophole for the wealthy that they represented. ''The senator is always open to suggestions for closing these loopholes,'' she said.

Money held in asset protection trusts can elude creditors because federal bankruptcy law exempts assets governed by ''applicable nonbankruptcy law.'' Intended to preserve rights to property under state law, the exemption makes it difficult for creditors to get hold of assets that they would not be able to seize through a nonbankruptcy proceeding in state court.

Asset protection trusts have become increasingly popular in recent years among physicians, who fear large medical malpractice awards, and corporate executives, whose assets are at greater peril now because of new laws. The Sarbanes-Oxley legislation, for example, requires chief executives and chief financial officers to certify that their companies' financial statements are accurate; anyone who knowingly certifies false numbers can be fined up to $5 million. In addition, under Sarbanes-Oxley, executives may have to reimburse their companies for bonuses or other incentive compensation they received if their company's financial reports have to be restated in later years. ''Given all the notoriety of what we're seeing today, from HealthSouth to WorldCom, there is probably more of an impetus for executives to consider going this route,'' said Scott E. Blakeley, a lawyer at Blakeley & Blakeley in Irvine, Calif. ''And yet in the bankruptcy bill, this topic is not touched.''

While it is difficult to quantify how much money is sitting in domestic asset protection trusts, their popularity is undeniable, bankruptcy specialists said. ''I've heard figures for foreign asset protection trusts and those probably are in the billions,'' said Adam J. Hirsch, a law professor at Florida State University. ''I haven't seen any figures for domestic asset protection trusts, but they could very well be the same.''

Current federal bankruptcy law protects assets held in a type of trust, known as a spendthrift trust, traditionally set up by one family member to benefit another. But current law does not protect the assets of people who set up spendthrift trusts to benefit themselves. And the law limits the purposes of the trusts that qualify for exemption. Retirement planning or paying for education are two approved purposes for such trusts. By contrast, domestic asset protection trusts can be set up by the same people who plan to benefit from them. In addition, there are no caps on the dollar amount of assets they can hold and no restrictions on their purpose, Ms. Marty-Nelson said. One limitation is that the trusts cannot be set up by people who are already insolvent.

The states that allow these trusts do so to attract the significant money management and trustee fees that accompany them, Mr. Hirsch said. ''It's what is known in the parlance of legal policy analysis as a race to the bottom,'' he said.

The authors of the Delaware law, for example, noted when it was passed in 1997 that it was meant to ''maintain Delaware's role as the most favored jurisdiction for the establishment of trusts.''

In some ways, asset protection trusts are similar to the homestead exemption that keeps homes in Florida, Texas and other states out of the reach of creditors. But the bankruptcy law now under consideration limits this exemption to $125,000 for those who purchased the home within 40 months of their bankruptcy filing or for those who have committed securities fraud.

Ms. Marty-Nelson said the bankruptcy bill should at least apply such a cap to domestic asset protection trusts. Better yet, she said, the bill should exclude these trusts from the federal exemption altogether.

''Congress can and should close this huge loophole,'' she said.

Mrs. FEINSTEIN. I believe it is critical that we appropriately reform our bankruptcy system, and I applaud the efforts of Senator GRASSLEY and others to do that. But it is important that we ensure that, wherever possible, loopholes subject to abuse are closed. This is just such a loophole. I hope that my colleagues will join me and Senator SCHUMER in closing this one.

Mr. KENNEDY. Mr. President, the most disturbing thing about this supposed ''bankruptcy reform'' is the utter lack of fairness and balance in the legislation. It gets tough on working families who are facing financial hardship due to a health crisis, a job loss caused by a plant closing, or a military call up to active duty. The laws of bankruptcy are being changed to wrest every last dollar out of these unfortunate families in order to further enrich the credit card companies.

However, the authors of this legislation look the other way when it comes. to closing millionaire's loopholes and ending corporate abuse. The bill fails to deal effectively with the unlimited homestead exemptions in a few States which allow the rich to hold on to their multi-million dollar mansions while middle class families in other States lose their modest homes. And, the bill totally fails to address the shocking abuse of millionaires hiding their assets in so-called ''asset protection trusts,'' placing them completely beyond the reach of creditors. They can hold on to their wealth merely by signing a paper placing title their bank accounts, stocks, bonds, and other holdings in the name of a trust. The wealthy debtors don't even have to change their residences or put all of their money into a country estate in Florida or Texas. All they need to do is file a trust document in one of the five States that allow this subterfuge. They do not have to relinquish control over their property and it can continue to be used to support their extravagant lifestyle.

Unfortunately, average families facing bankruptcy don't have large bank

accounts and stock portfolios so they cannot take advantage of this loophole. Most couldn't even afford to hire a lawyer to set up the trust. However, that's all right because the asset protection trust scam was not designed for them. It was designed to protect millionaire deadbeats, people who ran their companies into the ground leaving their creditors and their former employees holding the bag. It was designed to protect those who took the money and ran.

Somehow the authors of this bill, after eight years of studying the bankruptcy code in search of ways to tighten the law so that more people would be held accountable for their debts—somehow they overlooked this loophole. I wonder how they could have missed this one. I guess they were just too busy finding ways to make working families pay a few more dollars to the credit card companies.

Fortunately, the New York Times did expose this outrageous loophole and Senator SCHUMER has offered an amendment to close it. It will empower the bankruptcy court to reach out and pull the assets in these abusive trusts back into the bankruptcy, using those assets to help pay creditors. The vote on this amendment will be a real test of the sincerity of those who say their goal is to hold debtors more accountable for the money they owe. I would hope that same desire to enforce personal responsibility applies to the millionaire deadbeat who hides his assets as well as the working family struggling to survive.

Mr. GRASSLEY. Mr. President, I oppose the Schumer amendment. This is an issue that just needs more time for us to determine whether there is an abuse that needs to be addressed. We need to ensure that this amendment doesn't have unintended consequences. For instance, it doesn't define the term ''asset protection trust'' and therefore we aren't even sure what we are being asked to vote on. Further, it not only covers asset protection trusts, but also covers ''similar trusts.'' Until we have had time to really understand whether this is a loophole, and if it is, how to close it in a way that doesn't harm innocent third parties.

In addition, this issue is even more complex because it implicates 50 different State laws. We don't know enough at this point about how it works. This would override at least some State laws, like the homestead cap would. I think it is important to look at this issue, have a hearing and consult with senators whose States might be uniquely affected. Be sure, however, that my opposition to this amendment doesn't mean that I will not ultimately find that this issue needs to be addressed at some future date. I think that all the work we have done on this bill, the compromises we have reached should not be disrupted by this last-minute proposal that has not been well thought out.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. 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. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a series of stacked votes in relation to the following amendments: Schumer amendment No. 42 and Rockefeller amendment No. 24; further, that no amendments be in order to the amendments prior to the votes; that the second vote be limited to 10 minutes in length; and that there be 1 minute on each side to explain these amendments prior to the vote.

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

AMENDMENT NO. 48

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the pending Specter amendment No. 48 be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 48) was agreed to.

AMENDMENT NO. 42

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays on the Schumer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The PRESIDING OFFICER. Who yields time on the amendment?

Without objection, time is yielded back.

The question is on agreeing to amendment No. 42 offered by the Senator from New York, Mr. SCHUMER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr MCCONNELL. The following Senator was necessarily absent: the Senator from Oklahoma (Mr. INHOFE).

Further, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would have voted ''no.''

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—39

Akaka	Chafee	Feinstein
Baucus	Clinton	Harkin
Bayh	Conrad	Jeffords
Biden	Dayton	Kennedy
Bingaman	Dodd	Kerry
Byrd	Dorgan	Kohl
Cantwell	Durbin	Landrieu
Lautenberg	Murray	Rockefeller
Leahy	Nelson (FL)	Salazar
Levin	Obama	Sarbanes
Lieberman	Pryor	Schumer
Lincoln	Reed	Stabenow
Mikulski	Reid	Wyden

NAYS—56

Alexander	DeWine	McConnell
Allard	Dole	Murkowski
Allen	Domenici	Nelson (NE)
Bennett	Ensign	Roberts
Bond	Enzi	Santorum
Brownback	Frist	Sessions
Bunning	Graham	Shelby
Burns	Grassley	Smith
Burr	Gregg	Snowe
Carper	Hagel	Specter
Chambliss	Hatch	Stevens
Coburn	Hutchison	Sununu
Cochran	Isakson	Talent
Coleman	Johnson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner
DeMint	McCain	

NOT VOTING—5

Boxer	Feingold	Inouye
Corzine	Inhofe	

The amendment (No. 42) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, let me announce to all Members that following the next vote we will vote in relation to the Durbin amendment No. 49. We will have an explanation of 2 minutes equally divided. Both of these votes are going to be 10 minutes. We are going to enforce the time on this vote. Everybody please stay in the Chamber at the convenience of all Members so we can finish this vote and the next vote within 10 minutes each, particularly this one.

The PRESIDING OFFICER. There are 2 minutes evenly divided prior to the vote on the Rockefeller amendment.

Who yields time?

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this amendment is critical to making corporate bankruptcies fairer to the people who have worked in those corporations and toiled during the course of their lives and expect, reasonably, at end of their service, to have something to show for it.

My amendment does three things.

First, it allows employees to recover up to $15,000 in backpay or other compensation that is owed them.

Second, my amendment would eliminate the accrual time period for calculation of priority claims. And, if we do not eliminate the accrual period, then increasing wage priority in the bill is meaningless.

Finally, my amendment would provide at least some compensation to retirees whose promised health insurance has been taken away.

Under my proposal, each retiree would be entitled to payment equal to the cost of purchasing comparable health insurance for a period of 18 months.

I encourage the support of my colleagues.

Mr. BYRD. Mr. President, the great union leader, John L. Lewis, spoke of those who sup at labor's table and who have been sheltered in labor's house.

That image thrives in West Virginia, where children are raised to believe that the fruits of their labor ought to yield a decent wage and comfortable living. Many work long hours, concerned less about titles and honors than providing for their families in the present and securing their retirement in old age.

They devote themselves to their labors and take pride in their work and their employer. These workers are committed, hard-working individuals who contribute much and ask for nothing more than simple fairness. And so imagine how they are made to feel—the anguish, frustration, and betrayal they are made to feel—when they learn the pension they worked for, the health benefits they labored for, the security they toiled for, has vanished.

That is what is happening in West Virginia to an alarming degree. Special Metals, Horizon Natural Resources, Weirton Steel, Wheeling-Pitt, Kaiser Aluminum—all have filed for bankruptcy, endangering the health and pension benefits of workers and retirees.

I scold not those who have sought to protect their employees but those scoundrels who have used bankruptcy to abandon their obligations.

It is shattering to those workers and retirees affected. It cripples their faith in the moral values of an honest day's work for an honest day's pay. It's terrifying for retirees who cannot begin new careers. These independent, proud men and women fear becoming a burden to their children and grandchildren.

I understand how they are made to feel, and I seek to help them, as I always have sought to help them. I support the Rockefeller amendment, and I commend my colleague for his endeavors in this regard.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this amendment would provide a nearly fourfold increase in claim amounts and strike the time period. That means it would be much harder to confirm a plan under Chapter 11. It will cost us jobs, because the debtor companies would not be able to survive the bankruptcy process.

My colleague from the Finance Committee is concerned about the co-provisions. Rest assured, they are bad. We all know how many compromises have been made on this bill. This amendment would undo years of hard work.

I urge my colleagues to vote no on this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Wisconsin (Mr. FEINGOLD), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 24 Leg.]

YEAS—40

Akaka	Harkin	Nelson (FL)
Baucus	Jeffords	Obama
Bayh	Johnson	Pryor
Bingaman	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Kohl	Rockefeller
Clinton	Landrieu	Salazar
Collins	Lautenberg	Sarbanes
Conrad	Leahy	Schumer
Dayton	Levin	Snowe
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	Wyden
Durbin	Mikulski	
Feinstein	Murray	

NAYS—54

Alexander	Crapo	Martinez
Allard	DeMint	McCain
Allen	DeWine	McConnell
Bennett	Dole	Murkowski
Biden	Domenici	Nelson (NE)
Bond	Ensign	Roberts
Brownback	Enzi	Santorum
Bunning	Frist	Sessions
Burns	Graham	Shelby
Burr	Grassley	Smith
Carper	Gregg	Stevens
Chafee	Hagel	Sununu
Chambliss	Hatch	Talent
Coburn	Hutchison	Thomas
Cochran	Isakson	Thune
Coleman	Kyl	Vitter
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

NOT VOTING—6

Boxer	Feingold	Inouye
Corzine	Inhofe	Specter

The amendment (No. 24) was rejected.

Mr. FRIST. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. For the information of our colleagues, this will be the last rollcall vote tonight. We will have probably two votes at 5:30 on Monday.

AMENDMENT NO. 49

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, pursuant to unanimous consent, on the next amendment you should keep in mind Kenneth Lay who, on the road to bankruptcy, took $200 million out of Enron. Bernie Ebbers took $366 million in personal loans out of WorldCom, and John Rigas took $2.3 billion in loans for a golf course—driving the companies into bankruptcy at the expense of the stockholders, employees, and retirees. This amendment reaches back and brings that money to the people who need it. It also gives a claim in bankruptcy for the pension rights that are extinguished in bankruptcy. I ask for Members' support.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this is an important matter, but this amendment is too. I ask Members to vote no on the amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 49.

Mr. DURBIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Pennsylvania (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

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

The result was announced—yeas 40, nays 54, as follows:

[Rollcall Vote No. 25 Leg.]

YEAS—40

Akaka	Feinstein	Murray
Baucus	Harkin	Nelson (FL)
Bayh	Jeffords	Obama
Biden	Johnson	Pryor
Bingaman	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Kohl	Rockefeller
Carper	Landrieu	Salazar
Clinton	Lautenberg	Sarbanes
Conrad	Leahy	Schumer
Dayton	Levin	Stabenow
Dodd	Lieberman	Wyden
Dorgan	Lincoln	
Durbin	Mikulski	

NAYS—54

Alexander	DeMint	McCain
Allard	DeWine	McConnell
Allen	Dole	Murkowski
Bennett	Domenici	Nelson (NE)
Bond	Ensign	Roberts
Brownback	Enzi	Santorum
Bunning	Frist	Sessions
Burns	Graham	Shelby
Burr	Grassley	Smith
Chafee	Gregg	Snowe
Chambliss	Hagel	Stevens
Coburn	Hatch	Sununu
Cochran	Hutchison	Talent
Coleman	Isakson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Voinovich
Crapo	Martinez	Warner

NOT VOTING—6

Boxer	Feingold	Inouye
Corzine	Inhofe	Specter

The amendment (No. 49) was rejected.

Mr. LOTT. 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.

Mr. LOTT. Mr. President, I ask unanimous consent to speak as in morning business for a couple minutes.

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

(The remarks of Mr. LOTT are printed in today's RECORD under ''Morning Business.'')

Mr. LOTT. I yield the floor, and 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

AMENDMENT NO. 50

Mr. REID. I ask unanimous consent the pending amendment be laid aside.

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

Mr. REID. I send an amendment to the desk on behalf of Senator BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BAUCUS, proposes an amendment numbered 50.

Mr. REID. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend section 524(g)(1) of title 11, United States Code, to predicate the discharge of debts in bankruptcy by any vermiculite mining company meeting certain criteria on the establishment of a health care trust fund for certain individuals suffering from an asbestos related disease)

On page 47, strike lines 12 through 14, and insert the following:

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended—

(1) in subsection (g)(1), by adding at the end the following:

''(C)(i) Congress finds that—

''(I) the vermiculite ore mined and milled in Libby, Montana, was contaminated by high levels of asbestos, particularly tremolite asbestos;

''(II) the vermiculite mining and milling processes released thousands of pounds of asbestos-contaminated dust into the air around Libby, Montana, every day, exposing mine workers and Libby residents to high levels of asbestos over a prolonged period of time;

''(III) the responsible party has known for over 50 years that there are severe health risks associated with prolonged exposure to asbestos, including higher incidences of asbestos related disease such as asbestosis, lung cancer, and mesothelioma;

''(IV) the responsible party was aware of accumulating asbestos pollution in Libby, Montana, but failed to take any corrective action for decades, and once corrective action was taken, it was inadequate to protect workers and residents and asbestos-contaminated vermiculite dust continued to be released into the air in and around Libby, Montana, until the early 1990s when the vermiculite mining and milling process was finally halted;

''(V) current and former residents of Libby, Montana, and former vermiculite mine workers from the Libby mine suffer from asbestos related diseases at a rate 40 to 60 times the national average, and they suffer from the rare and deadly asbestos-caused cancer, mesothelioma, at a rate 100 times the national average;

''(VI) the State of Montana and the town of Libby, Montana, face an immediate and severe health care crisis because—

''(aa) many sick current and former residents and workers who have been diagnosed with asbestos-related exposure or disease cannot access private health insurance;

''(bb) the costs to the community and State government related to providing health coverage for uninsured sick residents and former mine workers are creating significant pressures on the State's medicaid program and threaten the viability of other community businesses;

''(cc) asbestos-related disease can have a long latency period; and

''(dd) the only significant responsible party available to compensate sick residents and workers has filed for bankruptcy protection; and

''(VII) the responsible party should recognize that it has a responsibility to work in partnership with the State of Montana, the town of Libby, Montana, and appropriate health care organizations to address escalating health care costs caused by decades of asbestos pollution in Libby, Montana.

''(ii) In this subparagraph—

''(I) the term 'asbestos related disease or illness' means a malignant or non-malignant respiratory disease or illness related to tremolite asbestos exposure;

''(II) the term 'eligible medical expense' means an expense related to services for the diagnosis or treatment of an asbestos-related disease or illness, including expenses incurred for hospitalization, prescription drugs, outpatient services, home oxygen, respiratory therapy, nursing visits, or diagnostic evaluations;

''(III) the term 'responsible party' means a corporation—

''(aa) that has engaged in mining vermiculite that was contaminated by tremolite asbestos;

''(bb) whose officers or directors have been indicted for knowingly releasing into the ambient air a hazardous air pollutant, namely asbestos, and knowingly endangering the residents of Libby, Montana and the surrounding communities; and

''(cc) for which the Department of Justice has intervened in a bankruptcy proceeding; and

''(IV) the term 'Trust Fund' means the health care trust fund established pursuant to clause (iii).

''(iii) A court may not enter an order confirming a plan of reorganization under chapter 11 involving a responsible party or issue an injunction in connection with such order unless the responsible party—

''(I) has established a health care trust fund for the benefit of individuals suffering from an asbestos related disease or illness; and

''(II) has deposited not less than $250,000,000 into the Trust Fund.

''(iv) Notwithstanding any other provision of law, any payment received by the United States for recovery of costs associated with the actions to address asbestos contamination in Libby, Montana, as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall be deposited into the Trust Fund.

''(v) An individual shall be eligible for medical benefit payments, from the Trust Fund if the individual—

''(I) has an asbestos related disease or illness;

''(II) has an eligible medical expense; and

''(III)(aa) was a worker at the vermiculite mining and milling facility in Libby, Montana; or

''(bb) lived, worked, or played in Libby, Montana for at least 6 consecutive months before December 31, 2004.''; and

(2) by adding at the end the following:

Mr. KENNEDY. Mr. President, Senator SESSIONS, on the floor yesterday, criticized Elizabeth Warren's study on bankruptcies, and the high percentage of bankruptcy filers who file because of significant debt related to illness and medical costs, uses.

Senator SESSIONS cited a U.S. Trustee Program ''survey'' from 2002 that looked into medical costs as a factor in bankruptcy. He argued that ''only slightly more than 5 percent of unsecured debt reported in those cases was medically related;'' ''54 percent of the cases listed no medical debts whatsoever. I want to repeat that,'' he said.

He also said that ''they found that 90 percent of the cases that did have medical debts reported debts of less than $5,000.''

Elizabeth Warren sent a letter to the Judiciary Committee last month which pointed out many of the problems with this U.S. Trustee Program ''survey'':

The survey underreported both the breadth and impact of medical bankruptcies because of the way it was conducted.

U.S. trustee's sample was limited only to chapter 7 cases and omitted chapter 13 cases. Families filing for bankruptcy under chapter 7 have an annual median income of $19,000. Therefore, the average medical debt identified by the U.S. trustee—the average is $5,000 for those with medical debt—is quite substantial for those families trying to cope with medical problems. Mr. President, $5,000 in medical debt is more than 25 percent of the annual income for that family.

The petition data used by the Office of the U.S. Trustee does not include any medically related debts charged onto credit cards such as prescription medications, doctors visits, rehabilitation treatments, medical supplies, hospital bills, or even second mortgages that people have put on their homes to pay off hospital bills and other medical expenses, or cash advances, bank overdrafts or payday loans that people have incurred to pay for medical services when they are delivered or to pay medical bills that are outstanding. If any of these bills were paid by being charged on a credit card, then the trustee's survey would not include them in its figures.

For these and other reasons, the petition data gathered by the U.S. Trustee Program provides very little information about medical bankruptcy. This is why it is so important to survey the

debtors themselves in order to collect accurate data, the way the Harvard study actually did.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that that the order for the quorum call be dispensed with.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO FORMER CONGRESSWOMAN TILLIE FOWLER

Mrs. DOLE. Mr. President, I rise today with a very heavy heart. And I know the devastation and deep sadness I feel are shared by many in the Capitol, in Washington, and throughout America. For with the passing of former Congresswoman Tillie Fowler, America has lost one of her most accomplished and dedicated public servants, and I have lost one of my most precious friends.

Tillie's remarkable record of public service is well known to many of my colleagues. It began over three decades ago, when she worked as a legislative staff member here on Capitol Hill. Her talents soon attracted the attention of Virginia Knauer, Special Assistant to the President for Consumer Affairs. It was there that Tillie and I worked side by side and bonded as lifelong friends.

Following her marriage, she and her beloved husband, Buck, moved to Florida, where they would raise two wonderful daughters—Tillie Anne, and my goddaughter, Elizabeth. Tillie also devoted her talents and her enormous energy to her community as a volunteer serving in numerous leadership positions. She was President of the Jacksonville City Council—the first woman ever to hold that position, and the first Republican to preside over the council in more than a century. This, despite the fact that the Council consisted of 16 Democrats and only 3 Republicans. Clearly, Tillie's intelligence, integrity, and leadership skills were respected across party lines.

In 1992, Tillie ran for the United States House of Representatives. Her popularity was so great that the incumbent Congressman decided to retire rather than run against her.

As those who served with her know, Tillie quickly earned a reputation as one of the hardest working and most effective Members of Congress. She was recognized as one of the 1 most thoughtful and visionary members of the House Armed Services Committee, and the 8 years she spent in the halls of the Capitol were full of accomplishments.

She became the highest ranking woman on either side of Capitol Hill, when her colleagues selected her as Vice Chair of the Republican Conference.

Term-limiting herself, she retired from Congress, but not from public service. Time and again she was called on by our Nation's leaders to serve in important and sensitive assignments. Defense Secretary Rumsfeld named her Chair—the first female Chair—of the Defense Policy Board Advisory Committee, and he appointed her to lead the seven member panel created by Congress to review misconduct allegations at the Air Force Academy. He turned to her again for a blue-ribbon panel to provide independent professional advice on Iraq's Abu Ghraib prison.

Tillie Fowler was a role model of what a servant of the public should be. And she was the finest friend that one could have. Loyal and caring, she was like a sister to me—always there, always reaching out, always searching for ways in which she could help.

Poet Robert Frost wrote: ''As dawn goes down to day; Nothing gold can stay.'' Tillie was pure gold. She will live forever in my heart.

Bob and I send our strongest support, our love, our prayers to Tillie's family.

Mr. MARTINEZ. Mr. President, I rise today to join my colleague from North Carolina to speak about our great loss, the loss of a great friend, the passing of Congresswoman Tillie Fowler of Jacksonville. Tillie was taken from us suddenly yesterday, passing from this Earth to a better life, and we are sad and shocked by this terrific loss that the State and the Nation has suffered.

In every way, Tillie was a great lady. She had such a unique combination of strengths that she has been referred to as a ''steel magnolia.'' She was ever gracious and kind and a gentle soul, but at the same time she was firm in her convictions. Even though Tillie had left the House of Representatives, people in the highest levels of Government, as pointed out by my colleague from North Carolina, continually sought her advice and counsel.

Most recently she had served on the Defense Policy Board Advisory Committee, which provides counsel to Secretary of Defense Rumsfeld on policy and strategy.

I relied often on her sound judgment and advice. Most recently we were talking about the Mayport Naval Base in Florida and the USS *Kennedy*, and what the Florida delegation should do in order to ensure the long-term viability of Mayport. She was an instrumental adviser to Governor Jeb Bush on the BRAC and BRAC process.

Tillie was a great friend and personal counselor to me. It was only about this time a year ago that she and I were standing near the St. John's River in Jacksonville and she announced her support for my candidacy for the Senate. I am so grateful for her support, and so proud to have had the faith of Tillie Fowler in my candidacy. Her wisdom will be missed, but her legacy is firmly in place.

Tillie Fowler began her life as a public servant shortly after earning her law degree from Emory University. She came to Washington to work for 3 years as a legislative assistant to Representative Robert Stephens of Georgia, and shortly thereafter she went to work at the Nixon White House in the Office of Consumer Affairs.

At the White House, Tillie made one of her dearest lifelong friends, our colleague Senator ELIZABETH DOLE. Tillie and her husband Buck even named one of their daughters Elizabeth in honor of that wonderful friendship. Tillie looked to ELIZABETH DOLE as a role model for working women, as someone who could be strong without being hard edged, and she followed that example of success. I extend to my colleague my deepest condolences on the loss of your good and dear friend.

After her tenure at the White House, she and Buck moved back to Jacksonville, FL, where they settled down to raise a family. She became active in a number of community organizations including the American Red Cross and the Jacksonville Junior League. She eventually ran for the city council in the 1980s, and served for 7 years, the last year as council president. She was the first female, and the first Republican, to serve as the president of the Jacksonville city council.

In 1992 Tillie Fowler became Congresswoman Tillie Fowler and quickly rose to be one of the top ranking women in the House of Representatives. She became vice chairwoman of the House Republican Conference and, for 6 years, chief deputy whip. Congresswoman Fowler served on the House Armed Services Committee and the House Committee on Transportation as well. Both committees allowed her to become a successful advocate for the city of Jacksonville and for the State of Florida. But I think Tillie will always be remembered for her great grasp of defense policy, her impassioned advocacy on behalf of the U.S. military.

In the year 2000, Congresswoman Fowler voluntarily stepped down to honor a pledge she had made to self-limit and return to private life. Without a doubt, the most important legacy left behind by our friend Tillie Fowler is her family—her husband Buck, and their two daughters Elizabeth and Tillie.

Our hearts are with you. Our thoughts and prayers go out to you during this difficult time.

We will miss her greatly and may God bless her.

Mr. CONRAD. Mr. President, I am saddened by the passing of Tillie Fowler. My wife and I had the privilege of traveling with her overseas, and I found her to be a wonderful person.

Tillie Fowler had a sparkle in her eye, and she had a warm way about her. We enjoyed her company. I think everybody who dealt with her respected Tillie Fowler's intelligence, her compassion, and her serious interest in making good policy for the country. I respected her contribution to her State and to our country. My wife and I commented many times after that trip what a delightful time we had with Tillie Fowler. We express our condolences to the family as well.

Mr. ALLARD. Mr. President, I join my colleague from North Carolina in expressing my condolences to the family, and express how much I respected Tillie Fowler.

I had an opportunity to say hello to her a little over a week ago. She was so happy and vibrant. Her sudden passing was very much a shock to me. It reminds all of us just how fragile life can be.

I had an opportunity to get to know Tillie Fowler when I served in the U.S. House of Representatives with her. She was a wonderful person and highly respected in the House of Representatives. I do not recall one person in the whole body, whether they opposed or supported her, who had cross words to say to Tillie Fowler. She was always well prepared, always courteous, and always somebody you admired when you served with her and got to know her.

I worked closely with her on a number of defense issues because that was her life's love. I had a chance to get to know her more closely when we had an issue in Colorado with the Air Force Academy. As you may recall, when we set up a commission, which she chaired, it was called the Fowler Commission.

I reflect on the type of respect she garnered from everybody who was around her. When we put her on that commission, we knew she would do a good job. We named the commission after her because of the respect we had for her. It was a difficult task. She did it with honor. She was very hard working and pursued it vigorously. She did a great job.

I join my colleagues in expressing my condolences to the family, and express how much we all loved her. We will miss her. May God bless.

Mr. CHAMBLISS. Mr. President, I know I will be joined by the Presiding Officer in the shock and sadness that exists because of the loss of Tillie Fowler.

Tillie was a friend of mine long before I ever got involved in politics. I have lived in Georgia for 37 years. You can't live in Georgia without knowing the Kidd family. Tillie grew up in Milledgeville, GA. Her dad, Culver Kidd, was a longtime State senator, known as ''the silver fox.'' He was quite a gentlemen and quite a legend in his own time in Georgia politics.

Tillie was a great mentor to me during my 8 years in the House, as I know she was to the Presiding Officer. As I told her husband Buck last night, I fought many battles with her. Of all the people I was associated with in the House and in this body, there was nobody I would rather have had in that foxhole with me when I was fighting a battle than Tillie Fowler. She was a great lady who exemplified everything that is good about the Congress, and she will be dearly missed.

I yield the floor.

MINORITY RIGHTS

Mr. LAUTENBERG. Mr. President, on Tuesday morning just past, we had our usual Democratic Senate caucus lunch. We discuss lots of things at those lunch meetings. But we were all struck by an appeal from our dearly beloved colleague Senator ROBERT C. BYRD, whom I consider a dear friend of long standing. I have been here over 20 years. When he rose to encourage all of us to resist subverting existing Senate rules to bypass an important process which permitted the minority in the Senate to challenge the Senate Republican majority to run roughshod over the rights of the minority, to exercise longstanding rules that permitted them a voice, Senator BYRD pleaded with us, not as a Democrat, not as a partisan, but as citizens and Senators, to fight to preserve the rights of a minority by being able to use a tactic called a filibuster as a means of protection for the minority.

We have to remember that in the recent elections for President, 57 million people voted for JOHN KERRY, and they were a minority. This Senate decides to ignore those voices and concerns of a minority of that size?

The Senators who voted against cloture recently represented 19 million more constituents than the majority. Can that be constructed as a tyranny of the minority when the Senators who were against cloture represented 19 million people more than the majority who wanted cloture? Tyranny of the minority. Outrageous.

Senator BYRD pleaded with Members to remind our Republican colleagues that such a rules change could once be at their expense, that their constituents could be deprived of their appropriate rights to a voice in legislative or executive matters.

I offer these comments as a prelude to remarks I am about to make. We have seen some ugly personal attacks recently by the Republican Party against our Senate Democratic leader, HARRY REID. He was called an obstructionist. He was referred to in sarcastic and insulting terms, as well as our former majority leader, Senator ROBERT C. BYRD, and Democratic Party chairman Howard Dean.

The other side cannot beat us with the strength of their ideas. They are resorting to the same tactics they used against Senator Daschle—personal attacks on family members and attacks on character. This is shameless behavior.

Not too long ago we had an election in Georgia in which Max Cleland, a former Senator, a triple amputee, was portrayed as being soft on defense. He was being portrayed as a coward when it came to defending our country. He lost three limbs, two legs and an arm, in the defense of his Nation. And they succeeded with these shameless tactics.

We see a continuation of that. It has to stop. Whenever they are short of ideas, they are long on insults, with shameless name-calling.

Yesterday, a group calling itself the Republican Jewish Coalition attacked Senator BYRD over a historical reference he made on Hitler's rise to power in Germany. It was not an anti-Semitic remark. I resent the fact they are raising that kind of an insinuation. I am proud of my America. I am proud of my citizenship and the duty I served my country with when I wore a uniform and that I serve my country with now. I am also proud of my Jewish heritage. I resent it when any group steps up to use the shameless insinuations and challenges and insults being put forward.

Senator BYRD is known by everyone in this Chamber and people who have served for many years past as a great historian. He uses lessons from history to teach. On Tuesday just past, Senator BYRD at our luncheon issued a stern warning before we do anything irresponsible such as changing longstanding Senate rules with this notorious nuclear option which says reduce the numbers needed to object to something the majority has proposed.

That is the structure of democracy. Minority voices are to be heard. We say it in our Constitution. We say it in our courtrooms. It does not matter where.

Senator BYRD's warning came in the form of a lesson of history. He simply said that when you change the rules, you change the laws to suit your convenience, you are engaged in a tyranny. As the saying goes, those who cannot remember the past are condemned to repeat it.

Senator BYRD talked about how a threatened filibuster in this Senate defeated FDR's plan to pack the Supreme Court. We are talking about a Democratic President. That was an option that was available according to the rules that the minority could use. Senator BYRD reminded the Senate the other day how in Germany Adolf Hitler twisted the Reichstag to pass his enabling act, the act that removed the obstructions that were blocking Hitler's plans. It was a historical lesson we should pay attention to. But now, Senator BYRD's words are being twisted by this group.

To show some of the shameless tactics they are using, look at this picture. It shows masked men, obviously suicide bombers, with a child strapped with explosives and suggesting that Democrats are responsible for this kind of a condition. It is an outrage. We will not stand silent when the Republican National Committee encourages this

kind of behavior. That is how they beat Max Cleland, and that is how they beat Senator Daschle. We are not going to let them win without telling the American people this is a shameful kind of tactic. They have no scruples when they do something like this.

No one is suggesting the Republicans are a disloyal party or that they have a particular hate design to their association. But when any group associated with the party suggests that suicide bombers are something that Democrats encourage, to trifle with the loss of life that occurred in Israel, and now we see it in Baghdad—how do we feel about our soldiers serving so bravely and gallantly in Iraq, losing their lives? How do we feel about the Iraqis who lost over 100 of their citizens in one day in a suicide bomb attack? We feel terrible.

As a consequence, when something like this, something as scurrilous as this is used, we will condemn it. We are proud of Senator BYRD. He has served this country nobly for many years. Did we disagree with him on some things? Absolutely. We disagree with each other on many occasions. That is what our responsibility is, to disagree when we think something is wrong.

I hope this group will not continue this insinuation that Democrats are disloyal, that Democrats would stand for suicide bombers who kill not only Israelis, who kill our soldiers. Is that what they want to say about Democrats? Perhaps a look in the mirror by people at the top of the administration to examine their own military service and see if they were there to protect the rights of our people.

Use a tactic like this? It cannot work, it shouldn't work, and it won't work.

TRIBUTE TO MAX M. FISHER

Mr. LOTT. Mr. President, it was with a great deal of sadness that I learned today that one of the great patriots in America, a man from Illinois, Max Fisher, passed away.

Max Fisher has been a great American statesman, a patriot, a public servant, an entrepreneur, and community leader. He lived in Michigan. He has some Illinois roots also. He was born in 1908 to humble beginnings. He built a company that became SPEEDWAY 76. He was the driving force behind the revitalization of the city of Detroit, and he was a close adviser to four U.S. Presidents.

I got to know him quite well during the 1990s. I was able to visit with him personally. I got to know his family. I was so impressed with his commitment to his family, his community, his people, and his Nation.

He was a great American and a righteous man. We have lost one of our great patriots in America today. I wanted to pay special tribute to Max Fisher and his family on this occasion.

HONORING OUR ARMED FORCES

STAFF SERGEANT ERIC STEFFENEY

Mr. GRASSLEY. Mr. President, I rise today to honor a soldier who has fallen in service to his country in Iraq. SSG Eric Steffeney of the 18th Ordnance Company died on the 23rd of February near Tuz, Iraq, when an undetected explosive detonated while he cleared the road of landmines. He was 28 years old and is survived by his mother, Annette, his father, Gary, his wife, Theresa, and their three children, Benjamin, Caitlin, and Dennis.

Staff Sergeant Steffeney grew up in Waterloo, IA, where he attended West High School. He graduated from high school early and enlisted in the Army when he was 17 years old. Initially serving as a paratrooper, Staff Sergeant Steffeney eventually joined the Army's bomb squad because he thought it would be more challenging. He was finishing his second tour of duty when he was killed.

Staff Sergeant Steffeney was described as a quiet, loyal, and responsible man who was a good soldier and an all-American boy. Indeed, it is the dedicated and courageous people such as SSG Eric Steffeney who embody the ideals of this great country best and, through the way they lived and gave their lives, keep her people standing proud and strong. I ask all of my colleagues to remember with pride and appreciation this soldier. I give my condolences to the family and friends of Staff Sergeant Steffeney who have felt this loss most deeply. I offer my most sincere gratitude and respect to SSG Eric Steffeney. This country is forever indebted to him and his colleagues for the sacrifices they have made to uphold the ideals which we treasure most as Americans.

STAFF SERGEANT WILLIAM T. ROBBINS

Mrs. LINCOLN. Mr. President, Today, I rise to honor the life of SSG William Robbins. At home in Arkansas, he was, above all else, a loving family man who devoted himself entirely to his wife and his children. On the front lines of Operation Iraqi Freedom, he was a dedicated soldier who bravely fought to bring security and stability to a nation torn apart by war.

Staff Sergeant Robbins was born and raised in the small, southern Missouri town of Poplar Bluff. He spent his childhood, as many children do, playing with his friends with whom he shared a love for the outdoors. From an early age, he knew he wanted to be a soldier, and regardless of where he was or what he did, that thought was never far from his mind.

In 1990, he moved to Arkansas and settled in the North Little Rock area. It was there he met the love of his life, his future wife Kimberly, and together they would raise two beautiful daughters, 5-year-old Tristan Ellis, and Abigail, who was less than a year old. It was clear to those who knew him best that his family was his pride and joy and he cherished every minute he spent with them. This fun-loving soul had a special affinity for children and at family gatherings was often found with the youngest of the group, playing games and bringing smiles to everyone's faces.

In the Arkansas National Guard, SSG Robbins worked full-time as administrative sergeant at the Guard's armory in Beebe. Last year, he was one of only about a dozen soldiers from the armory mobilized for duty in Operation Iraqi Freedom. It would prove to be a bittersweet time for the Robbins family; just as the family welcomed home William's mother Janice, a major in the Army Reserves returning from a deployment in Germany, they bid him farewell with prayers of a safe return.

Staff Sergeant Robbins' deployment was the first in his 11-year service in the Arkansas National Guard. While in Iraq, he was attached to the 206th Field Artillery Battalion of the 39th Infantry Brigade, and was selected to work in a military advisory capacity with the Iraqi National Guard. As American forces sought to transition more of their security and stabilization responsibilities to the Iraqi people, SSG Robbins advised and trained these civilian volunteers on infantry tactics as well as the fundamental aspects of being a soldier.

Last fall, SSG Robbins took his military leave and was able to return home for a short time. It was a much-needed reprieve from the dangers of Iraq and offered him the opportunity to return to the place he called home and spend time with the people he cared for most. It also offered him the opportunity to explain to Tristan, who was simply too young to fully understand, why her father had been away and when he would be back for good. As best he could, he explained to her the circumstances of his absence and even the possibility that he may not return. He was once a young man with a parent in the military and could relate to the lack of comprehension children often have in these situations. Relying on this perspective, as well as the natural gift he had always shown in relating to children, Tristan's father was able to provide her with some much needed comfort and understanding.

Along with many of the soldiers from the 39th, SSG Robbins' mission was soon coming to an end and he was to scheduled to return to Arkansas in late March or April. Upon his return, he was looking forward to a new job with the Arkansas National Guard at Camp Robinson's Regional Training Institute in North Little Rock. Even more so, he was looking forward to being reunited with his family. When he spoke with Kimberly, he reminded her how very much he loved her and couldn't wait to come home. When he spoke with Tristan, he told her how much he looked forward to seeing her again so he could take her in his arms and swing her like an airplane.

Tragically, he passed away on February 10 from a gunshot wound at his home base at Camp Taji. While the loss for Kimberly and her family will be felt deeply, they have found some solace knowing that his last days were spent doing what he wanted to do, helping people. In the days following his death, it was clear to his family the impact he had on each of their lives. It was also quickly apparent that although he was no longer with them, his presence would always be felt; whether it was the devotion and thoughtfulness evident in the basket of chocolates and Valentine's Day card he sent Kimberly just before his death, the spirit embodied in the eyes of Abigail who turned 1 year old on February 23, or the courage that Tristan, thanks to her father, has shown in trying to understand what has happened. They are lasting examples of not only the remarkable way he led his life, but more importantly, are a testament to the kind of man he was.

My thoughts and prayers go out to the family and friends of William Robbins, and to all those who knew and loved him. His 31 years with us were far too short, but his legacy of love and service to his Nation will remain with us forever.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October 2, 2004, Daniel Fetty was brutally beaten to death. Fetta, a 39-year-old deaf and gay man, was allegedly struck repeatedly with bricks and boards by three men in his home town of Waverly, OH. His body was stripped of all clothing and thrown into a dumpster. It is believed that the motivation behind this brutal attack was the sexual orientation of the victim.

I believe that the Government's first duty is to defend its citizens, to defend them against the harm that comes out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NATIONAL PEACE CORPS WEEK

Mr. COLEMAN. Mr. President, this week is National Peace Corps Week. It is with great pleasure that I send my congratulations to the Peace Corps volunteers serving throughout the world as we celebrate the Peace Corps' 44th year of service.

Currently, more than 7,700 volunteers are answering the call to serve in 72 countries around the world. It is a list that is growing. In an historic agreement focused on science and technology, the Peace Corps entered Mexico last year. And over 20 other countries have expressed interest in establishing a partnership with the Peace Corps.

Peace Corps volunteers have made a 27-month commitment to serve overseas typically in undeveloped or rural areas devoid of many modern necessities such as sanitation, transportation, and electricity. They work to achieve the first goal of the Peace Corps: training and educating people around the world. Volunteers are serving as teachers, business advisors, information technology consultants, agricultural workers, and as HIV/AIDS educators. Today over 3,100 Peace Corps volunteers are helping to implement President Bush's Emergency Plan for AIDS Relief.

Even as they work on their projects to help those in the countries they serve, Peace Corps volunteers become America's unofficial ''ambassadors'' of goodwill, fulfilling the Peace Corps' second goal of helping to promote a better understanding of America. In the words of former U.S. Ambassador Tibor Nagy: ''During my long overseas service, I consistently met two categories of people who were highly favorable toward our country: those who had close contact with Peace Corps volunteers, and those who had studied in the U.S.'' These kinds of public diplomacy efforts are more important today than ever.

What's more, Peace Corps volunteers' unofficial ''ambassador'' duties do not conclude when they return home to the United States. Rather, they set about completing the third goal of the Peace Corps by promoting a better understanding of other countries here in America. In this way, Peace Corps volunteers give back much to their communities here at home.

As chairman of the Subcommittee on Western Hemisphere, Peace Corps, and Narcotics Affairs, it is my desire to continue to assist in the growth of Peace Corps, and the well-being of its volunteers. As the Peace Corps continues to expand, I believe it is necessary to provide this agency the resources it needs to continue to ensure volunteer safety, productivity, and satisfaction. And I applaud efforts by the Peace Corps to further diversity our volunteers.

It is my pleasure to recognize 223 Minnesota volunteers who right now are serving our Nation around the globe in countries from Albania to Uzbekistan. I would also like to recognize the over 5,000 returned Peace Corps volunteers who have already represented Minnesota and the United States abroad. Finally, I am happy to join with all past and present Peace Corps volunteers as we celebrate Peace Corps Week 2005, February 28–March 6.

Mr. KOHL. Mr. President, I rise today to recognize the accomplishments of the Peace Corps during National Peace Corps Week—February 28 through March 6.

For 44 years, the Peace Corps has engaged in meaningful work and made innumerable contributions to both America and the countries served by Corps members. Today, more than 2,700 Peace Corps volunteers are working to train men and women in 72 countries to provide for their own needs, as well as to promote mutual understanding between Americans and other cultures.

It gives me great pride to know that the Peace Corps and the people of Wisconsin have a strong relationship. Right now, there are 289 Peace Corps volunteers from Wisconsin, including 137 volunteers from the University of Wisconsin-Madison—more volunteers than any other university in the Nation. The State of Wisconsin can also be proud that the university served as a training ground for many groups bound for service in the early years of the Peace Corps.

To better illustrate the work that Wisconsinites do for the Peace Corps, I would like to share this story of great accomplishment. In August 2004, for the first time, the Peace Corps honored returned volunteers with an award recognizing efforts to promote a better understanding by Americans of other cultures. This award was presented to the Returned Peace Corps Volunteers of the University of Wisconsin-Madison. Since 1987, the group has raised money by selling calendars with pictures of Peace Corps experiences from around the world. The money is used to promote grassroots projects in countries where the volunteers served. The group also works to raise awareness about the Peace Corps and participates in charity events.

This story is both an inspiration and a call to further service. The $98,000 that the Returned Peace Corp Volunteers of Wisconsin-Madison donated over a 2-year period to the Peace Corps Partnership Program is a wonderful and meaningful achievement. It is my hope that other people in Wisconsin and throughout the United States will view these returned volunteers as role models.

In closing, I wish to thank the 171,000 Americans who have served in the Peace Corps since 1961 and extend special recognition to the 4,409 Wisconsinites counted among that number. The work of the Peace Corps has made an extraordinarily valuable difference to so many people throughout the world.

CELEBRATING WOMEN IN SCIENCE WEEK

Mr. JOHNSON. Mr. President, it is with great honor that I rise today to publicly recognize South Dakota's Women in Science Conference that is taking place March 7–11, 2005.

Hosted by the National Weather Service, this conference introduces

junior and senior high school females to the multitude of opportunities available to women in science- and math-related occupations. Studies indicate that, while females thrive in science and mathematics in grade school, far too frequently female students lose interest in these subjects by the time they reach graduation. As Kristine Thompson, a geologist and curator of the Mammoth Site's In-Situ Bonebed notes, ''In the past, many girls and young women with an interest in science and math often were redirected to other fields. Although women account for half of the work force, they constitute less than 20 percent of scientists.''

Consequently, the National Oceanic and Atmospheric Administration's, NOAA, National Weather Service forecast offices in Aberdeen, Rapid City, and Sioux Falls, in conjunction with local and State agencies, schools, and businesses, are cohosting Women in Science conferences throughout South Dakota. These symposiums, created 5 years ago by the Aberdeen National Weather Service, are designed to foster personal connections between accomplished professional women scientists and female students. The Women in Science Conference creates a unique forum where successful female scholars and professionals meet and hopefully inspire young women to continue developing and cultivating their interests in the natural and physical sciences. To demonstrate the significance of these events, Governor Mike Rounds, by Executive Proclamation, declared this week ''Women in Science Week in South Dakota.''

Among the notable guests featured throughout the week is keynote speaker Karen Stoos. Karen is a native of Hoven, SD, and is currently a biologist at the Genetics and Molecular Biology Branch of the National Human Genome Research Institute in Bethesda, MD. Other presenters' areas of expertise span the fields of geology, animal science, engineering, medicine, and metrology. Additionally, the National Aeronautics and Space Administration, the National Weather Service, and the Girl Scouts will have exhibits and representatives in attendance. More than 1,000 seventh through twelfth-grade students and teachers are already registered to attend.

I am proud to have the opportunity to share with my colleagues this exciting and significant series of events, and I am very pleased that the conference's efforts are being publicly honored and celebrated. I strongly commend the hard work and dedication of the National Weather Service and all of the sponsors of the Women in Science Conference, as their contributions will positively impact the lives of so many young women in South Dakota.

COMMENDING IFES

Mr. SALAZAR. Mr. President, we are all very impressed by the results of the Iraqi elections in January. The results exceeded our expectations, and I am hopeful it is evidence that Iraq is moving toward democracy. I wanted to add my voice to the letter sent by Secretary of State Condoleezza Rice commending IFES. Without the tremendous work of our troops who provided security at over 10,000 polling places around Iraq and the work of IFES, these historic elections would not have happened. I ask unanimous consent that the letter from Secretary Rice to IFES President Richard Soudriette dated February 28, 2005, be printed in the RECORD.

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

THE SECRETARY OF STATE,
Washington, DC, February 28, 2005.

Mr. RICHARD SOUDRIETTE,
President, International Foundation for Election Systems, Washington, DC.

DEAR MR. SOUDRIETTE: On behalf of the Department of State, I would like to offer my thanks for the International Foundation for Election Systems' role in supporting the recent elections in Iraq. On January 30 we saw millions of Iraqis brave intimidation and threats of death to demonstrate their commitment to democracy. We are heartened by this process for the future of vibrant, thriving democracy in Iraq.

The success of this first step in Iraq's transition to democracy is due in no small part to your organization's diligence and the dedication of your highly skilled staff. IFES's guidance on election regulations and operations, complaints adjudication, and public information not only helped to ensure transparency but also served to buoy confidence that these historic elections were indeed credible and transparent. Additionally, IFES's continuing role in building the Independent Electoral Commission of Iraq's capacity for future electoral events will buttress Iraq's evolving democratic institutions.

Thank you again for your great contribution to the future of Iraq. Together, we will help the Iraqi people realize their dream of living in a free and democratic society.

Sincerely,

CONDOLEEZZA RICE.

ADDITIONAL STATEMENTS

CASUALTIES IN IRAQ

● Mr. KENNEDY. Mr. President, 1,500 American service men and women have been killed in Iraq, and more than 11,000 have been wounded.

We were all moved by the Iraqi elections last month. I and all Americans support the creation of a legitimate, functioning Iraq Government that guarantees the rights of all Iraqis. We all want democracy in Iraq to take root firmly and irrevocably.

But we also want to know when we will have achieved our mission in Iraq and when our 135,000 soldiers will be able to return home with dignity and honor.

At a March 1 hearing in the Senate Armed Services Committee, General Abizaid, the leader of the Central Command, gave the clearest indication so far about when our mission might end.

General Abizaid said, ''I believe that in 2005, the most important statement that we should be able to make is that in the majority of the country, Iraqi security forces will take the lead in fighting the counterinsurgency. That is our goal.''

About the capabilities of the Iraqi security forces, General Abizaid said, ''I think in 2005 they'll take on the majority of the tasks necessary to be done.''

If the Iraqis make the significant progress this year that General Abizaid expects, it is perfectly logical to expect that a large number of American troops will be able to return home.

Our troops are clearly still needed to deal with the insurgency. But there is wide agreement that the presence of American troops is also fueling the insurgency and making it more difficult to defeat.

After the election, the administration announced that 15,000 American troops added to provide security for the elections would return, and additional troops should be able to return this year. Doing so would clearly help take the American face off the occupation and send a clearer signal to the Iraqi people that we have no long-term designs on their country.

In the February 28 edition of US News and World Report, General Abizaid emphasized this basic point. He said ''An overbearing presence, or a larger than acceptable footprint in the region, works against you . . . The first thing you say to yourself is that you have to have the local people help themselves.''

Deputy Secretary Wolfowitz made the same point in a hearing at the Senate Armed Services Committee on February 3. He said, ''I have talked to some of our commanders in the area. They believe that over the course of the next six months you will see whole areas of Iraq successfully handed over to the Iraqi army and Iraqi police.''

Before the election, the administration repeatedly stated that 14 of the 18 provinces in Iraq are safe. We heard a similar view in a briefing from Ambassador Negroponte.

If some areas can be turned over to the Iraqis in the next 6 months, as Secretary Wolfowitz indicated, it should be done. It would be a powerful signal to the Iraqi people that the United States is not planning a permanent occupation of their country. If entire areas are being turned over to the Iraqis, we should be able to bring many American troops home.

The road ahead will be difficult because the violence is far from ended. Sixty-six Americans soldiers have been killed in the 31 days since the election an average of two a day. But the election has produced new hope, and the Iraqi people are now forming the Transitional Government that will write a new constitution for the country and hold elections next December for the permanent new government that will lead their new democracy.

We all hope for success in Iraq, and appropriate withdrawals of our forces can clearly be an important factor in achieving that success.

The President's commitment to keeping American troops in Iraq as long as it takes and not a day longer is not enough for our soldiers and their loved ones. They deserve a clearer indication of what lies ahead, and so do the American people. General Abizaid has begun to provide clarification of that very important issue, and I hope the President will as well.●

HARLEY-DAVIDSON KANSAS CITY ASSEMBLY PLANT

● Mr. TALENT. Mr. President, I rise today to pay tribute to the workers at Harley-Davidson's Kansas City Assembly Plant for their hard work and to salute Harley-Davidson for all of the great things they have done for the State of Missouri since locating the plant here just a few years ago.

Harley-Davidson is the oldest and largest motorcycle manufacturer in the U.S. The Kansas City plant, one of only two Harley-Davidson final assembly plants in the country, produces the Sportster, the Dyna Glide, and the V-Rod, and ships those motorcycles all over the world. The plant, which employs over 900 people, opened in 1998, and has achieved its intended goal of significantly increasing Harley-Davidson's production capacity and productivity.

Every September, the plant hosts an open house for Platte County residents and Harley enthusiasts from across the country to tour the plant and learn about how motorcycles are built. Best of all, anyone with a motorcycle license can take the opportunity to test ride a brand new Harley.

Harley-Davidson's contributions to the Kansas City area are important to job creation and sustaining economic growth, and Missourians are proud to have such an iconic symbol of the American spirit located in our State. I am honored to share their accomplishments with you today, and I wish the workers at the Kansas City Plant success in their future endeavors.●

MESSAGE FROM THE HOUSE

At 1:54 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 27. An act to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes.

H.R. 912. An act to ensure the protection of beneficiaries of United States humanitarian assistance.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 27. An act to enhance the workforce investment system of the Nation by strengthening one-stop career centers, providing for more effective governance arrangements, promoting access to a more comprehensive array of employment, training, and related services, establishing a targeted approach to serving youth, and improving performance accountability, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 912. An act to ensure the protection of beneficiaries of United States humanitarian assistance; to the Committee on Foreign Relations.

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–1178. A communication from the Chief, Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''United States—Chile Free Trade Agreement'' (RIN1505–AB47) received on March 1, 2005; to the Committee on Finance.

EC–1179. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tsunami Relief'' (Notice 2005–23) received on March 1, 2005; to the Committee on Finance.

EC–1180. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Interest'' (TD 9181) received on March 1, 2005; to the Committee on Finance.

EC–1181. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Reorganizations under Section 368(a)(1)(E) and 368(a)(1)(F)'' (TD 9182) received on March 1, 2005; to the Committee on Finance.

EC–1182. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''REMIC TEFRA Applicability'' (TD 9184) received on March 1, 2005; to the Committee on Finance.

EC–1183. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Uniform Capitalization of Interest Expense in Safe Harbor Sale and Leaseback Transactions'' (TD 9179) received on March 1, 2005; to the Committee on Finance.

EC–1184. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Adjustment to Net Unrealized Built-in Gain'' (TD 9180) received on March 1, 2005; to the Committee on Finance.

EC–1185. A communication from the Acting Chief, Publications and Regulation 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—December 2004'' (Rev. Rul. 2005–12) received on March 1, 2005; to the Committee on Finance.

EC–1186. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Tax-Exempt Leasing Involving Defeasance'' (Notice 2005–13) received on March 1, 2005; to the Committee on Finance.

EC–1187. A communication from the Acting Chief, Publications and Regulation Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Modification of Check the Box'' (TD 9183) received on March 1, 2005; to the Committee on Finance.

EC–1188. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the Commission's March 2005 report entitled ''Medicare Payment Policy''; to the Committee on Finance.

EC–1189. A message from the President of the United States, transmitting, pursuant to law, the 2005 National Drug Control Strategy; to the Committee on the Judiciary.

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–28. A resolution adopted by the Legislative Research Commission of the Commonwealth of Kentucky relating to tobacco growers selling their excess 2004 crop; to the Committee on Agriculture, Nutrition, and Forestry.

RESOLUTION

Whereas on October 22, 2004, the President signed into law the Fair and Equitable Tobacco Reform Act of 2004; and

Whereas the tobacco quota buyout legislation represents the most significant change in the tobacco production program since the 1930s; and

Whereas the buyout means there will be no constraints on who can produce tobacco, where it is grown, how much can be marketed, and what the price may be; and

Whereas the tobacco production system will shift to contracting directly with tobacco companies; and

Whereas many quota owners and growers may decide to quit tobacco production altogether; and

Whereas some growers may have excess tobacco remaining from their 2004 crop, but, because of federal laws and regulations, cannot sell it; and

Whereas at least one large tobacco company has indicated it will not accept carryover tobacco, or tobacco produced and harvested in a prior crop year; and

Whereas it is important that tobacco growers be able to sell all their 2004 leaf crop: Now, therefore, be it *Resolved* by the House Agriculture and Small Business Committee of the Kentucky General Assembly:

Section 1. The Agriculture and Small Business Committee strongly urges the United States Congress and the United States Department of Agriculture take the necessary steps to allow tobacco producers to sell the excess tobacco from their 2004 crop.

Secion 2. Copies of this resolution shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, to each member of the Commonwealth's delegation to the Congress of the United States, and to the Secretary of the U.S. Department of Agriculture.

POM–29. A resolution adopted by the Senate of the Commonwealth of Pennsylvania

relative to the Medal of Honor; to the Committee on Armed Services.

SENATE RESOLUTION 5

Whereas United States Army and Department of Defense officials are reviewing a recommendation to upgrade Major Winters' Distinguished Service Cross to the Medal of Honor; and

Whereas Major Winters was originally nominated for the Medal of Honor by Colonel Robert F. Sink, commander of the 506th Regiment, for heroic actions on June 6, 1944, during the Allied invasion of Normandy, France, as 1st Lieutenant, Acting Commanding Officer of E Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division, VII corps; and

Whereas Major Winters' extraordinary planning, fighting and commanding on that day 60 years ago in Nazi-occupied Normandy during his regiment's first combat operation saved countless lives and expedited the Allied inland advance; and

Whereas With his company outnumbered by German soldiers, Major Winters destroyed German guns at Brecourt Manor and secured causeways for troops coming off Utah Beach; and

Whereas Major Winters' battle plan for a small-unit assault on German artillery has been taught at the United States Military Academy at West Point; and

Whereas Major Winters accomplished a hazardous mission with valor, inspired his service colleagues through example and effectively organized his company into support and assault teams on the day of invasion in the campaign for European liberation during World War II: Therefore, be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the Congress of the United States to award the Medal of Honor to Major Richard D. Winters without further delay; and be it further

Resolved, That a copy of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–30. A resolution adopted by the General Assembly of the State of Ohio relative to the Clear Skies Act of 2005; to the Committee on Environment and Public Works.

SENATE RESOLUTION 20

Whereas although the nation's air quality has improved significantly since the early 1970's, pollutants such as sulfur dioxide, nitrogen oxide, and mercury continue at levels that cause environmental and public health concerns. Because of those concerns, the United States Environmental Protection Agency has established stricter National Ambient Air Quality Standards, most recently for ozone and particulate matter; and

Whereas currently, 474 counties, including 33 in Ohio, are in nonattainment with the ozone standard and 224 counties, including 32 in Ohio, are in nonattainment with the particulate matter standard. Nonattainment designations place a significant burden on state and local governments, which must develop plans to reduce emissions and come into attainment by a specific date; and

Whereas in order to ensure that the states have the most effective means of attaining the new standards, the Clear Skies Act of 2005 (S. 131) has been introduced in the United States Senate. This legislation not only is based on the successful Acid Rain Programs, it also incorporates a multi-emissions approach that takes advantage of the benefits that would result from controlling multiple pollutants at the same time; and

Whereas the Clear Skies Act balances environmental, energy, and economic needs. For example, it requires power plants to reduce emissions of sulfur dioxide, nitrogen oxide, and mercury by 70% by 2018 and allows the nation to continue burning coal, our most abundant and low-cost energy source, while improving our nation's air quality: Now, therefore be it

Resolved, That we, the members of the Senate of the 126th General Assembly of the State of Ohio, urge the Congress of the United States to enact the Clear Skies Act of 2005 in order to improve our nation's air quality and ensure our nation's economic stability; and be it further

Resolved, That the Clerk of the Senate transmit duly authenticated copies of this resolution to the President of the United States, the President Pro Tempore and Secretary of the United States Senate, the Speaker and Clerk of the United States House of Representatives, the members of the Ohio Congressional delegation, and the news media of Ohio.

POM–31. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the Republic of Poland; to the Committee on the Judiciary.

SENATE RESOLUTION 25

Whereas the Republic of Poland is a free, democratic and independent nation; and

Whereas in 1999 the United States and the Republic of Poland became formal allies when Poland was granted membership in the North Atlantic Treaty Organization; and

Whereas the Republic of Poland has proven to be an indispensable ally in the global campaign against terrorism; and

Whereas the Republic of Poland has actively participated in Operation Iraqi Freedom and the Iraqi reconstruction, shedding blood along with American soldiers; and

Whereas the President of the United States and other high-ranking officials have described the Republic of Poland as ''one of our closest friends''; and

Whereas on April 15, 1991, the Republic of Poland unilaterally repealed the visa obligation to United States citizens traveling to Poland; and

Whereas the United States Department of State Visa Waiver Program currently allows approximately 23 million citizens from 27 countries to travel to the United States for tourism or business for up to 90 days without having to obtain visas for entry; and

Whereas the countries that currently participate in the Visa Waiver Program include Andorra, Australia, Austria, Belgium, Brueni, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom; and

Whereas it is appropriate that the Republic of Poland be made eligible for the United States Department of State Visa Waiver Program: Therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania urge the President and Congress of the United States to make the Republic of Poland eligible for the United States Department of State Visa Waiver Program; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to all members of the Pennsylvania Congressional Delegation and to Przemyslaw Grudzinski, Ambassador of the Republic of Poland to the United States.

POM–32. A resolution adopted by the National Conference of Insurance Legislators relative to the Long-Term Care Partnership Program Act of 2004; to the Committee on Finance.

POM–33. A resolution adopted by the Council of the City of Parma, Ohio relative to the Pell Grant Program; to the Committee on Health, Education, Labor, and Pensions.

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. NELSON of Florida:

S. 500. A bill to regulate information brokers and protect individual rights with respect to personally identifiable information; to the Committee on Commerce, Science, and Transportation.

By Ms. COLLINS (for herself, Ms. LANDRIEU, Mrs. DOLE, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Ms. CANTWELL, Ms. MURKOWSKI, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. STABENOW, Mr. VOINOVICH, Mr. AKAKA, Mr. BENNETT, Mr. DURBIN, Mr. LAUTENBERG, Mr. SARBANES, and Mr. PRYOR):

S. 501. A bill to provide a site for the National Women's History Museum in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COLEMAN (for himself, Mr. PRYOR, Mr. DEWINE, and Mr. GRAHAM):

S. 502. A bill to revitalize rural America and rebuild main street, and for other purposes; to the Committee on Finance.

By Mr. BOND (for himself, Mr. TALENT, and Mr. DEWINE):

S. 503. A bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HAGEL (for himself, Mr. DURBIN, Ms. CANTWELL, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 504. A bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

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

S. 505. A bill to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area; to the Committee on Energy and Natural Resources.

By Mr. HAGEL (for himself, Mr. DURBIN, Ms. CANTWELL, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 506. A bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. REED, and Mr. VOINOVICH):

S. 507. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. LUGAR, Mr. BAYH, Mr. DAYTON, and Mr. KOHL):

S. 508. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself, Mr. LEVIN, Mr. WYDEN, Mr. HARKIN, and Ms. CANTWELL):

S. 509. A bill to improve the operation of energy markets; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WYDEN (for himself and Mr. TALENT):

S. 510. A bill to reduce and eliminate electronic waste through recycling; to the Committee on Finance.

By Mr. DEMINT (for himself, Mr. ALLEN, Mr. BROWNBACK, Mr. COBURN, Mr. ENSIGN, Mr. ENZI, Mr. INHOFE, Mr. SANTORUM, and Mr. VITTER):

S. 511. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself, Mr. ROCKEFELLER, and Mr. REED):

S. 512. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mrs. MURRAY, Mrs. LINCOLN, Mr. KERRY, and Mr. DURBIN):

S. 513. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BYRD:

S. 514. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BYRD:

S. 515. A bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes; to the Committee on Armed Services.

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

S. 516. A bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes; to the Committee on Foreign Relations.

By Mrs. HUTCHISON:

S. 517. A bill to establish a Weather Modification Operations and Research Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SESSIONS (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. DODD):

S. 518. A bill to provide for the establishment of a controlled substance monitoring program in each State; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON:

S. 519. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SHELBY (for himself, Mr. BROWNBACK, and Mr. BURR):

S. 520. A bill to limit the jurisdiction of Federal courts in certain cases and promote federalism; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. CORNYN, and Mr. SCHUMER):

S. 521. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 522. A bill for the relief of Obain Attouoman; to the Committee on the Judiciary.

By Mr. SALAZAR:

S. 523. A bill to amend title 10, United States Code, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes; to the Committee on Armed Services.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 524. A bill to strengthen the consequences of the fraudulent use of United States or foreign passports and other immigration documents; to the Committee on the Judiciary.

By Mr. ALEXANDER (for himself, Mr. DODD, Mr. ENZI, Mr. KENNEDY, Mr. HATCH, and Mr. ROBERTS):

S. 525. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, and Mrs. MURRAY):

S. 526. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. SCHUMER, and Mrs. CLINTON):

S. 527. A bill to protect the Nation's law enforcement officers by banning the FiveseveN Pistol and 5.7 x 28mm SS190 and SS192 cartridges, testing handguns and ammunition for capability to penetrate body armor, and prohibiting the manufacture, importation, sale, or purchase of such handguns or ammunition by civilians; to the Committee on the Judiciary.

By Mr. HARKIN (for himself and Mr. SMITH):

S. 528. A bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. MCCAIN, and Mr. STEVENS):

S. 529. A bill to designate a United States Anti-Doping Agency; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 69. A resolution expressing the sense of the Senate about the actions of Russia regarding Georgia and Moldova; to the Committee on Foreign Relations.

By Mr. FRIST (for himself, Mr. CORZINE, Mr. MCCONNELL, Mr. KENNEDY, Mr. ALLEN, Mr. REID, and Mr. ALEXANDER):

S. Res. 70. A resolution commemorating the 40th anniversary of Bloody Sunday; considered and agreed to.

By Mr. CRAIG (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mr. LIEBERMAN, Mr. COCHRAN, Mr. JOHNSON, Mr. HATCH, Mr. KOHL, Ms. MURKOWSKI, Mrs. BOXER, Mr. INHOFE, Ms. LANDRIEU, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, and Ms. MIKULSKI):

S. Res. 71. A resolution designating the week beginning March 13, 2005 as ''National Safe Place Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. SANTORUM, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 6, a bill to amend the Internal Revenue Code of 1986 to provide permanent family tax relief, to reauthorize and improve the program of block grants to States for temporary assistance for needy families and to improve access to quality child care, and to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 39

At the request of Mr. STEVENS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 39, a bill to establish a coordinated national ocean exploration program within the National Oceanic and Atmospheric Administration .

S. 132

At the request of Mrs. LINCOLN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 256

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

S. 285

At the request of Mr. BOND, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 285, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 333, a bill to hold the current regime in

Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 359

At the request of Mr. CRAIG, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Delaware (Mr. BIDEN) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 359, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 360

At the request of Ms. SNOWE, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 360, a bill to amend the Coastal Zone Management Act.

S. 370

At the request of Mr. LOTT, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 370, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 380

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 380, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 397

At the request of Mr. CRAIG, the names of the Senator from Tennessee (Mr. FRIST) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 399

At the request of Mr. COLEMAN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 399, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet, and for other purposes.

S. 406

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

S. 410

At the request of Mr. MCCAIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 410, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Ukraine.

S. 414

At the request of Mr. MCCONNELL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 414, a bill to amend the Help America Vote Act of 2002 to protect the right of Americans to vote through the prevention of voter fraud, and for other purposes.

S. 420

At the request of Mr. KYL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

S. 424

At the request of Mr. BOND, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 424, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 476

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 476, a bill to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act.

S. 487

At the request of Mr. NELSON of Nebraska, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 487, a bill to amend title 10, United States Code, to provide leave for members of the Armed Forces in connection with adoptions of children, and for other purposes.

S. 498

At the request of Mr. BURR, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 498, a bill to provide for expansion of electricity transmission networks in order to support competitive electricity markets, to ensure reliability of electric service, to modernize regulation and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS (for herself, Ms. LANDRIEU, Mrs. DOLE, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. BOXER, Ms. SNOWE, Ms. CANTWELL, Ms. MURKOWSKI, Mrs. CLINTON, Mrs. FEINSTEIN, Mrs. LINCOLN, Mrs. MURRAY, Ms. STABENOW, Mr. VOINOVICH, Mr. AKAKA, Mr. BENNETT, Mr. DURBIN, Mr. LAUTENBERG, Mr. SARBANES, and Mr. PRYOR):

S. 501. A bill to provide a site for the National Women's History Museum in the District of Columbia; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, today I am introducing the National Women's History Museum Act of 2005. I appreciate the support of my colleagues who have helped in this important effort and who have agreed to be cosponsors, including Senators LANDRIEU, DOLE, MIKULSKI, HUTCHISON, BOXER, SNOWE, CANTWELL, MURKOWSKI, CLINTON, FEINSTEIN, LINCOLN, MURRAY, STABENOW, VOINOVICH, AKAKA, BENNETT, DURBIN, LAUTENBERG, SARBANES, and PRYOR. I introduced this bill last Congress, and it passed the Senate unanimously.

The need to establish a museum recognizing the contributions of American women is clear. There is currently no national institution in the Washington, D.C. area that is dedicated to the legacy of women's contributions throughout our country's history. Sadly, fewer than 5 percent of the Nation's 2,200 National Historic Landmarks are dedicated to women, a troubling fact given the significant contributions of women throughout our Nation's history.

The proposed legislation would direct the General Services Administration (GSA) to negotiate and enter into an occupancy agreement with the National Women's History Museum, Inc. (NWHM) to establish a museum in the currently vacant Pavilion Annex of the Old Post Office building in Washington, D.C. The NWHM is a nonprofit, nonpartisan, educational institution in the District of Columbia that was created to research and present the historic contributions that women have made to all aspects of human endeavor and to present the contributions that women have made to the Nation in their various roles in family, the economy, and society. In 1999, the President's Commission on the celebrating of Women in American History concluded that ''efforts to implement an appropriate celebration of women's history in the next millennium should include,the designation of a focal point for women's history in our Nation's capital,'' citing the efforts of the NWHM to implement this goal.

The proposed legislation would serve two important purposes: Creating, as the President's Commission recommended, a national women's museum in the District of Columbia and, by designating the Pavilion Annex, utilizing a currently vacant space on Pennsylvania Avenue, considered ''America's Main Street.''

I would note that, last Congress the Government Accountability Office

(GAO) placed real property on its High Risk list noting that vacant and underutilized properties present significant potential risks to Federal agencies including lost dollars because of the need for maintenance and lost opportunities because the property could be put to more beneficial uses. The Annex has been vacant for more than 10 years and it is unclear whether, if at all, GSA will be able to generate a use for the building. While the adjacent Old Post Office is a national historic landmark, the Annex is not and has sat vacant and deteriorating for years, while Federal dollars are used to keep it maintained and secured.

In addition, the proposed legislation would generate revenue from this now vacant property for the Federal Government through rental payments, based on the fair market value. The museum would also benefit the city by drawing an estimated 1.5 million visitors annually to the District and promoting economic activities by attracting tourists.

I believe this legislation is clearly a win-win situation.

There is strong precedent for this type of legislation. In fact, museums in the District of Columbia are historically established by Congress through legislation that authorizes the use of Federal land or buildings. One recent legislative example is the National Museum for African American History and Culture, which identified potential sites for such a Museum. Another example is the National Law Enforcement Museum Act, which authorized the National Law Enforcement Officers' Memorial Fund, Inc. to build a Museum on Federal land. The current Building Museum located in the historic Pension Building was authorized by an act of Congress.

I believe that just as these museums serve very important public purposes of educating visitors about important aspects of our history and culture, so also would a national women's history museum fill a void in telling the story of women in our history.

The most compelling reasons to support this important piece of legislation are the stories of the women in American history, who helped change and shape our Nation: Women who were and are trailblazers such as Sandra Day O'Connor, who was the first woman to serve on the Supreme Court; Sally Ride, who was the first American woman in space; and Madeleine Albright, who was the first woman U.S. Secretary of State. We should ensure that the stories of women with unwavering bravery are told. Women like Harriet Tubman, who led slaves to freedom using the underground railroad, and Rosa Parks, who sparked a movement just by refusing to sit in the back of a bus. A national museum would record this history and tells the stories of these pioneering women, so that others might be inspired by them.

One woman who inspired me and who is my own role model is the woman who served in the Senate seat that I now hold, Maine's own Margaret Chase Smith, who was the first woman nominated for president of the United States by a major political party and the first woman to serve in both houses of Congress. Senator Smith began representing Maine in 1940. She was a woman who embodied the independent spirit of Maine. She was from Skowhegan and was known as a smart, courageous, and independent Member of Congress. Long after it became commonplace for women to serve in the highest ranks of our government, Senator Smith will be remembered in Maine and the Nation for her courage and service.

These women, and many like them, are the reason I am proud to sponsor a bill directing that the Old Post Office Annex be made available to house the National Women's History Museum. Women's history needs a place in our Capital and in our collective American history, so that we all cannot only learn about our past, but also be inspired to make history of our own.

I urge that my colleagues support this important piece of legislation.

By Mr. COLEMAN (for himself, Mr. PRYOR, Mr. DEWINE, and Mr. GRAHAM):

S. 502. A bill to revitalize rural America and rebuild main street, and for other purposes; to the Committee on Finance.

Mr. COLEMAN. Mr. President, traveling throughout rural Minnesota, I see a very real need for the revitalization and rebuilding of Main Streets, and this is why today I am introducing the Rural Renaissance Act with my good friends Senator PRYOR of Arkansas, Senator GRAHAM of South Carolina, and Senator DEWINE of Ohio. This legislation acknowledges that rural America needs significant infrastructure investment if it is to join with the rest of the Nation in an economic recovery, and our bill proposes to apply $50 billion toward this end.

Many Minnesota cities and towns need help with updating or expanding their drinking water supply systems or their wastewater treatment systems. The West Central Initiative and the USDA both estimate that there is a $1.5 billion gap between available local, State, and Federal resources and the amount needed by Minnesota communities. There are similar needs in communities throughout the rest of the Nation. Decaying physical infrastructure needs to be addressed because it impacts more than just health and quality of life. It also impacts the ability of a city or town to build housing, provide services, ensure access to information, and grow jobs. Throughout rural America, progress is being made in many areas, but in others, a lack of funding is impacting the ability of communities to address very critical albeit basic needs. Here is an example of the physical infrastructure challenges facing rural America: The Environmental Protection Agency estimates that communities will need an estimated $300 billion to $1 trillion over the next 20 years to repair, replace, or upgrade drinking water and wastewater facilities, accommodate a growing population, and meet water quality standards.

Current residents and businesses of rural communities face a challenge when it comes to accessing the Internet. This reality means that these cities and towns are set back when it comes to attracting new residents and businesses. While the number of broadband subscribers has risen dramatically in recent years, studies conducted by the FCC, DOC, and USDA all suggest that urban and high-income areas are far outpacing deployment in rural and low-income areas. As a result of these disparities, rural America suffers adverse economic and social consequences. The USDA has reported that in 2000, less than five percent of towns with populations of 10,000 or less had access to broadband. Likewise, the Commerce Department has found that 21.2 percent of Internet users in urban areas have access to high-speed connections, while only 12.2 percent of Internet users in rural areas have this technology.

Housing is essential if communities want to keep the businesses they have or attract new ones. Employers need to know that employees will be able to find housing that they can afford in or near the community. Housing efforts must emphasize new construction and rehabilitation alike. Communities need new units to attract new families and they must have the ability to help residents remodel and renovate existing housing. Housing in rural America is clearly an economic development issue. It is clear that these physical infrastructure needs have substantial financial implications for rural America. Some 1.8 million homes and apartments are moderately or severely substandard. Our Rural Renaissance Act addresses these needs. The impact of doing nothing poses great risks for the future of rural cities and towns.

As you can see, the need for a rural renaissance is clear. Greater Minnesota alone needs almost $7 billion over the next 20 years to modernize infrastructure, accommodate the increasing population, and meet current water quality standards. The cost of bringing high speed Internet access to the rest of rural America is estimated at about $10.9 billion. These are just a couple of examples but the most vivid, I think, are just the closed stores you see up and down our Main Streets. We'd like to turn these towns around like we did in St. Paul, and we can.

Our Rural Renaissance Act will fund these infrastructure improvements—and also provide for community facilities and farmer-owned and value-added projects—by sending $50 billion out to rural America in one to three years at a cost of about $15 billion over 10 years. It can be done through Federal bonds,

just as we helped pay for the costs of World War II and as State and locals pay for many infrastructure developments. The key, however, is that these monies will be made available to States and locals, as well as farmer-owned coops and other eligible entities, in the form of grants and low interest loans.

We have seen tremendous support from groups back home and across the country who share a commitment to revitalizing rural America and rebuilding our Main Streets. Those supporting this bill include, the Association of Minnesota Counties, the League of Minnesota Cities, the Minnesota Rural Water Association, the Independent Community Bankers of Minnesota, the Minnesota Rural Electric Association, the University of Minnesota, the Rural Broadband Coalition, the National Council of Farmer Cooperatives, the Telecommunications Industry Association, the American Sugarbeet Growers Association, Land O' Lakes, the Minnesota Corn Growers Association, the AgCountry Farm Credit Services, the AgStar Financial Services, the Farm Credit Services of Grand Forks, the Farm Credit Services of Minnesota Valley, AgriBank, the Minnesota Association of Wheat Growers, the Minnesota Association of Cooperatives, the Wisconsin Federation of Cooperatives, the Minnesota Barley Growers Association, the Minnesota Soybean Growers Association, the Minnesota Nursery and Landscape Association, the America Soybean Association, the Minnesota Association of Townships, the Minnesota Chapter of the National Association of Housing and Redevelopment Officials, and the Red River Valley Sugarbeet Growers Association.

These groups and many others agree with us when we say that we need the Rural Renaissance Act. And we look forward to working with them on this legislation. Together, we can create economic opportunity in rural America and grow jobs.

I ask unanimous consent that the text of the Rural Renaissance Act be printed in the RECORD.

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

S. 502

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Renaissance Act''.

SEC. 2. RURAL RENAISSANCE CORPORATION.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

''SEC. 379E. RURAL RENAISSANCE CORPORATION.

''(a) ESTABLISHMENT AND STATUS.—There is established a body corporate to be known as the 'Rural Renaissance Corporation' (hereafter in this section referred to as the 'Corporation'). The Corporation is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31, United States Code.

''(b) PRINCIPAL OFFICE; APPLICATION OF LAWS.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia Business Corporation Act (D.C. Code 29–301 et seq.) shall apply.

''(c) FUNCTIONS OF CORPORATION.—The Corporation shall—

''(1) issue rural renaissance bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986,

''(2) establish an allocation plan as required under section 54(f)(2)(A) of such Code,

''(3) establish and operate the Rural Renaissance Trust Account as required under section 54(i) of such Code,

''(4) perform any other function the sole purpose of which is to carry out the financing of qualified projects through rural renaissance bonds, and

''(5) not later than February 15 of each year submit a report to Congress—

''(A) describing the activities of the Corporation for the preceding year, and

''(B) specifying whether the amounts deposited and expected to be deposited in the Rural Renaissance Trust Account are sufficient to fully repay at maturity the principal of any outstanding rural renaissance bonds issued pursuant to such section 54.

''(d) POWERS OF CORPORATION.—The Corporation—

''(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

''(2) may adopt, alter, and use a seal, which shall be judicially noticed,

''(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

''(4) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

''(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

''(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

''(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

''(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this section, and

''(9) shall have such other powers as may be necessary and incident to carrying out this section.

''(e) NONPROFIT ENTITY; RESTRICTION ON USE OF MONEYS; CONFLICT OF INTERESTS; INDEPENDENT AUDITS.—

''(1) NONPROFIT ENTITY.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

''(2) RESTRICTION.—No part of the Corporation's revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this section.

''(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

''(4) INDEPENDENT AUDITS.—An independent certified public accountant shall audit the financial statements of the Corporation each year. The audit shall be carried out at the place at which the financial statements normally are kept and under generally accepted auditing standards. A report of the audit shall be available to the public and shall be included in the report required under subsection (c)(5).

''(f) TAX EXEMPTION.—The Corporation, including its franchise and income, is exempt from taxation imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

''(g) MANAGEMENT OF CORPORATION.—

''(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.—

''(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 7 members appointed by the President, by and with the advice and consent of the Senate.

''(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

''(C) INDIVIDUALS FROM PRIVATE LIFE.—Five members of the Board shall be appointed from private life.

''(D) FEDERAL OFFICERS AND EMPLOYEES.—Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with rural development.

''(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to rural development processes. Members of the Board shall be appointed so that not more than 4 members of the Board are members of any 1 political party.

''(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that of the members first appointed, as designated by the President at the time of their appointment, 2 shall be appointed for terms of 1 year and 2 shall be appointed for terms of 2 years.

''(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member's term, the member shall continue to serve until a successor is appointed and is qualified.

''(2) COMPENSATION, ACTUAL, NECESSARY, AND TRANSPORTATION EXPENSES.—Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Corporation.

''(3) QUORUM.—A majority of the Board shall constitute a quorum.

''(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.''.

SEC. 3. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Rural Renaissance Bonds

''Sec. 54. Credit to holders of rural renaissance bonds.

"SEC. 54. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the applicable credit rate, multiplied by

''(B) the outstanding face amount of the bond.

''(3) APPLICABLE CREDIT RATE.—For purposes of paragraph (2), the applicable credit rate with respect to an issue is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

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

''(B) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(2) CARRYOVER OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) RURAL RENAISSANCE BOND.—For purposes of this part, the term 'rural renaissance bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds from the sale of such issue are to be used—

''(A) for expenditures incurred after the date of the enactment of this section for any qualified project, or

''(B) for deposit in the Rural Renaissance Trust Account for repayment of rural renaissance bonds at maturity,

''(2) the bond is issued by the Rural Renaissance Corporation, is in registered form, and meets the rural renaissance bond limitation requirements under subsection (f),

''(3) except for bonds issued in accordance with subsection (f)(4), the term of each bond which is part of such issue does not exceed 30 years,

''(4) the payment of principal with respect to such bond is the obligation of the Rural Renaissance Corporation, and

''(5) the issue meets the requirements of subsection (g) (relating to arbitrage).

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation for each calendar year. Such limitation is—

''(A) for 2006—

''(i) with respect to bonds described in subsection (e)(1)(A), $50,000,000,000, plus

''(ii) with respect to bonds described in subsection (e)(1)(B), such amount (not to exceed $15,000,000,000) as determined necessary by the Rural Renaissance Corporation to provide funds in the Rural Renaissance Trust Account for the repayment of rural renaissance bonds at maturity, and

''(B) except as provided in paragraph (3), zero thereafter.

''(2) LIMITATION ALLOCATED TO QUALIFIED PROJECTS AMONG STATES.—

''(A) IN GENERAL.—Subject to subparagraph (B), the limitation applicable under paragraph (1)(A)(i) for any calendar year shall be allocated by the Rural Renaissance Corporation for qualified projects among the States under an allocation plan established by the Corporation and submitted to Congress for consideration.

''(B) MINIMUM ALLOCATIONS TO STATES.—In establishing the allocation plan under subparagraph (A), the Rural Renaissance Corporation shall ensure that the aggregate amount allocated for qualified projects located in each State under such plan is not less than $500,000,000.

''(3) CARRYOVER OF UNUSED LIMITATION.—If for any calendar year—

''(A) the rural renaissance bond limitation amount, exceeds

''(B) the amount of bonds issued during such year by the Rural Renaissance Corporation, the rural renaissance bond limitation amount for the following calendar year shall be increased by the amount of such excess. Any carryforward of a rural renaissance bond limitation amount may be carried only to calendar year 2007 or 2008.

''(4) ISSUANCE OF SMALL DENOMINATION BONDS.—From the rural renaissance bond limitation for each year, the Rural Renaissance Corporation shall issue a limited quantity of rural renaissance bonds in small denominations suitable for purchase as gifts by individual investors wishing to show their support for investing in rural America.

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—

''(1) IN GENERAL.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Rural Renaissance Corporation reasonably expects—

''(A) to spend at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on such date,

''(B) to incur a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue, or to commence construction, with respect to such projects within the 6-month period beginning on such date, and

''(C) to proceed with due diligence to complete such projects and to spend the proceeds from the sale of the issue.

''(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 3-YEAR DETERMINATION.—If at least 95 percent of the proceeds from the sale of the issue is not expended for 1 or more qualified projects within the 3-year period beginning on the date of issuance, but the requirements of paragraph (1) are otherwise met, an issue shall be treated as continuing to meet the requirements of this subsection if either—

''(A) the Rural Renaissance Corporation uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of such 3-year period, or

''(B) the following requirements are met:

''(i) The Rural Renaissance Corporation spends at least 75 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 3-year period beginning on the date of issuance.

''(ii) The Rural Renaissance Corporation spends at least 95 percent of the proceeds from the sale of the issue for 1 or more qualified projects within the 4-year period beginning on the date of issuance, and uses all unspent proceeds from the sale of the issue to redeem bonds of the issue within 90 days after the end of the 4-year period beginning on the date of issuance.

''(h) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—

''(1) IN GENERAL.—If any bond which when issued purported to be a rural renaissance bond ceases to be such a qualified bond, the Rural Renaissance Corporation shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c)) for taxable years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

''(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

''(2) FAILURE TO PAY.—If the Rural Renaissance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this chapter on each holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate decrease in the credits allowed under this section to such holder for taxable years beginning in such 3 calendar years which would have resulted solely from denying any credit under this section with respect to such issue for such taxable years.

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

''(i) the amount of any credit allowable under this part, or

''(ii) the amount of the tax imposed by section 55.

''(i) RURAL RENAISSANCE TRUST ACCOUNT.—

''(1) IN GENERAL.—The following amounts shall be held in a Rural Renaissance Trust

Account by the Rural Renaissance Corporation:

''(A) The proceeds from the sale of all bonds issued under this section.

''(B) The amount of any matching contributions with respect to such bonds.

''(C) The investment earnings on proceeds from the sale of such bonds.

''(D) Any earnings on any amounts described in subparagraph (A), (B), or (C).

''(2) USE OF FUNDS.—Amounts in the Rural Renaissance Trust Account may be used only to pay costs of qualified projects, redeem rural renaissance bonds, and fund the operations of the Rural Renaissance Corporation, except that amounts withdrawn from the Rural Renaissance Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of rural renaissance bonds described in subsection (e)(1)(A).

''(3) USE OF REMAINING FUNDS IN RURAL RENAISSANCE TRUST ACCOUNT.—Upon the redemption of all rural renaissance bonds issued under this section, any remaining amounts in the Rural Renaissance Trust Account shall be available to the Rural Renaissance Corporation for any qualified project.

''(j) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—Subject to paragraph (3), the term 'qualified project' means a project which—

''(A) includes 1 or more of the projects described in paragraph (2),

''(B) is located in a rural area, and

''(C) is proposed by a State and approved by the Rural Renaissance Corporation.

''(2) PROJECTS DESCRIBED.—A project described in this paragraph is—

''(A) a water or waste treatment project,

''(B) a conservation project, including any project to protect water quality or air quality (including odor abatement), any project to prevent soil erosion, and any project to protect wildlife habitat, including any project to assist agricultural producers in complying with Federal, State, or local regulations,

''(C) an affordable housing project,

''(D) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(E) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production or processing of ethanol, biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(F) a rural venture capital project for, among others, farmer-owned entities,

''(G) a distance learning or telemedicine project,

''(H) a project to expand broadband technology, and

''(I) a rural teleworks project.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) any project described in subparagraph (E) or (F) of paragraph (2) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(B) any project for a farmer-owned entity which is a facility described in paragraph (2)(E) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(4) APPROVAL GUIDELINES AND CRITERIA.—

''(A) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Rural Renaissance Corporation shall consult with the appropriate committees of Congress regarding the development of guidelines and criteria for the approval by the Corporation of projects as qualified projects for inclusion in the allocation plan established under subsection (f)(2)(A) and shall submit such guidelines and criteria to such committees.

''(B) APPROPRIATE COMMITTEES OF CONGRESS.—For purposes of subparagraph (A), the term 'appropriate committees of Congress' means the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, and the Committee on Finance of the Senate and the Committee on Agriculture, the Committee on Energy and Commerce, and the Committee on Ways and Means of the House of Representatives.

''(k) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(3) RURAL RENAISSANCE CORPORATION.—The term 'Rural Renaissance Corporation' means the Rural Renaissance Corporation established under section 379E of the Consolidated Farm and Rural Development Act.

''(4) TREATMENT OF CHANGES IN USE.—For purposes of subsection (e)(1)(A), the proceeds from the sale of an issue shall not be treated as used for a qualified project to the extent that the Rural Renaissance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(5) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(6) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(7) CREDITS MAY BE STRIPPED.—Under regulations prescribed by the Secretary—

''(A) IN GENERAL.—There may be a separation (including at issuance) of the ownership of a rural renaissance bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

''(B) CERTAIN RULES TO APPLY.—In the case of a separation described in subparagraph (A), the rules of section 1286 shall apply to the rural renaissance bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

''(8) REPORTING.—The Rural Renaissance Corporation shall submit reports similar to the reports required under section 149(e).''.

(b) AMENDMENTS TO OTHER CODE SECTIONS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF RURAL RENAISSANCE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a rural renaissance bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF RURAL RENAISSANCE BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a rural renaissance bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for 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 item:

''SUBPART H. NONREFUNDABLE CREDIT FOR HOLDERS OF RURAL RENAISSANCE BONDS.''.

(2) Section 6401(b)(1) of such Code is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2005.

By Mr. BOND (for himself, Mr. TALENT, and Mr. DEWINE):

S. 503. A bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BOND. Mr. President, I introduced S. 503, the Education Begins At Home Act. It is at the desk. It is cosponsored by Senators TALENT and DEWINE. I invite my colleagues to look at it and join with me in this significant measure to improve early childhood education and development of our children.

Parents as Teachers has worked in Missouri. It is a program which involves training and assistance for parents of children from birth to 3 years of

age. We have had significant improvements in educational achievements. We have identified problems in children. We have solved problems and saved money by avoiding the necessary, expensive, and very difficult remedial efforts. It involves home visits. It involves bringing children of like age groups together. It works at home. It works for the poorest families. It works for very busy two-working-parent families. It works on our military installations.

This measure expands from currently 3,300 children whose parents are in the program nationally to potentially 2.7 million families with young children throughout the United States. The program is presently in all States, in the Union. This expands on it and makes sure we use our early education dollars to the maximum benefit. Get parents involved. Home visits work.

Research has clearly shown that the early years are critical in a child's development and lay the foundation for success in school and in life. The home is the first and most important learning environment for children, and parents are their child's first and most influential teacher.

Through parent education and family support, we can promote parents' ability to enhance their children's cognitive, language, social-emotional and physical development—thereby helping parents to prepare their children for success in school.

It only makes sense to equip parents with the skills they need to help maximize their child's health and development and this is exactly what the Parents at Teachers Program does.

The curriculum is designed to build the foundation of later learning, provide early detection of developmental delays as well as health, vision and hearing problems, prevent child abuse and neglect and increase children's school readiness and school success.

To achieve these goals, Parents as Teachers provides personalized home visits by trained parent educators, group meetings with other new parents and formal screening of vision and hearing.

Twenty-one years ago I pushed the Early Childhood Education Act through the Missouri legislature. During my second term as Governor I signed that ground breaking bill into law which mandated PAT in every school district in the state of Missouri. For me that was the culmination of 5 long years of work.

One might say I was on a mission. And I was. Because in 1981, I found myself in a similar situation to that of the Missouri's current Governor. I was about to be a new father myself.

PAT certainly made a positive difference in my family. PAT helped us through sleepless nights, teething, and learning the ABC's. My son, Sam, was probably one of the first babies to benefit from the Parents as Teachers materials in Missouri. And countless others have benefited since.

What began as an experiment in Missouri has expanded to more than 3,000 sites in all 50 states, and seven foreign countries. Communities all over the world are investing in PAT because the results are positive and the cost is low.

Anecdotally, I can tell you that parents in PAT know that it is a tremendous benefit to them and their children.

The scientifically sound research shows that: At age 3, PAT children are more advanced in language, social development, problem solving and other cognitive abilities, PAT children score higher on kindergarten readiness tests, Children who participate in PAT score higher on standardized measures of reading, math and language in first through fourth grades, parents who participate in PAT are more confident about their parenting and are more involved in their children's schooling—a key component of a child's success in school.

Recognizing that all parents need and deserve support in laying a strong foundation for their child's success I will be introducing the Education Begins at Home Act.

To date over 2 million families nationwide have received the education and support they need through PAT. While this is a tremendous accomplishment, there are more families that can be reached by this exceptional program.

The Education Begins at Home Act makes a bold federal investment in parents by establishing the first, dedicated federal funding stream to support the expansion of Parents as Teachers—or other home visitation programs—at the state and local level.

The $500 million in federal funds over 3 years included in this bill will expand services to over 2.7 million families nationwide.

Ten times more families will be served by PAT under this legislation.

This bill will: provide $400 million over 3 years to states to expand access to PAT, encourage and foster more collaboration between PAT and Early Head Start Grantees, provide $50 million over 3 years to fund innovative ideas and partnerships at the local level to expand access to PAT in communities with limited English proficiency; and provide $50 million over 3 years to reach more military families by expanding access to PAT in schools and community organizations that serve military families.

All babies are born to learn and a parent is a child's first and most important teacher. Parents as Teachers better prepares children for success in school and life and helps parents become more active participants in their child's education.

The expansion of Parents as Teachers is a sound investment in the future of our children and families.

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

S. 505. A bill to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, I am pleased to join today with Senator MCCAIN to introduce the Yuma Crossing National Heritage Area Boundary Adjustment Act. This legislation would amend the Yuma Crossing National Heritage Act of 2000, Public Law 106–319, to reduce the size of the heritage area to conform to the area set forth in the Heritage Area Management Plan approved by the Secretary of the Interior in 2002.

The Yuma Crossing Heritage Area was designated in October 2000. It sprung from a preliminary concept plan completed in 1999 by the Heritage Area Task Force. The boundaries proposed in that plan included approximately 22 square miles, extending from the Colorado River on the north and west to the Avenue 7E alignment on the east and the 12th street alignment on the south. These boundaries represented the task force's ''best guess'' as to the cultural landscape warranting inclusion in the heritage area. This ''best guess'' was incorporated into the legislation designating the Yuma Crossing National Heritage Area.

During the development of the final Heritage Area Management Plan, which was subject to comprehensive community involvement, it became apparent that the area's boundaries were too large and should be more concentrated along the Colorado River and in historic downtown.

Rather than simply leave the boundaries as they were set in the 2000 legislation, we have heard from the community in Yuma that it is important that we conform the boundaries to those in the agreed-upon Management Plan. Doing so will provide certainty to the heritage area and those private landowners who live within its current boundaries. It will allow the heritage area to meet its management goals and responsibilities without the worry that private property rights may be affected in the future.

This is a non-controversial, straightforward correction. I hope my colleagues will work with me to pass it quickly this year.

By Mr. HAGEL (for himself, Mr. DURBIN, Ms. CANTWELL, Mr. LAUTENBERG, and Mrs. MURRAY):

S. 506. A bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

Mr. HAGEL. Mr. President, I rise today with Senator DURBIN to introduce the Public Health Preparedness Workforce Development Act of 2005. This legislation aims to increase the

pipeline of qualified public health workers at the Federal, State, local and tribal levels by offering scholarships to students going into the public health field. It also encourages current professionals to stay in the public health field by providing loan repayments in exchange for a commitment of a designated number of years of service in public health.

The average age of lab technicians, epidemiologists, environmental health experts, microbiologists, IT specialists, public health administrators and others who make up the public health workforce is 47, seven years older than the average age of the Nation's workforce. Over the next five years, my State of Nebraska will have more public health workers who are eligible for retirement than any other state in the Nation.

To encourage young people to enter the public health field, this legislation authorizes $35 million per year for scholarships and $195 million per year for loan repayments. Eighty percent of the funds would be dedicated for state and local public health workers, with bonus payments available to those who agree to be placed in under-served areas.

There are critical public health workforce shortages. We cannot afford to lose so many experienced workers just when our public health workforce should be expanding to meet increasing health needs. The ability of the public health system to respond to emerging infectious diseases like West Nile Virus, food-borne illnesses, or bioterrorism relies on a well-trained, adequately staffed public health network at all levels. It is important that we address this problem before it becomes a crisis.

I urge my colleagues to support this legislation.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. REED, and Mr. VOINOVICH):

S. 507. A bill to establish the National Invasive Species Council, and for other purposes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today, I am pleased to join with Senators LEVIN, STABENOW, REED, and VOINOVICH to introduce the National Invasive Species Council Act—a bill to permanently establish the National Invasive Species Council. I would like to thank my colleagues for their hard work on this legislation.

Recognizing the need for better coordination to combat the economic, ecologic, and health threats posed by invasive species, the federal government established the National Invasive Species Council by Executive Order in 1999. Today, the Council continues to operate and develop invasive species management plans. However, the Council is not as effective as it could be. The GAO reported that implementing these management plans is difficult because the Council does not have a congressional mandate to act. GAO further reported that most of the agencies that have responsibilities under the National Invasive Species Management Plan have not been completing activities by established due dates and that these agencies lack coordination. These are significant problems that must be addressed.

Invasive species are a national threat that we cannot afford to ignore. Many states are trying to combat these species that are threatening their local environments. Examples of such plants and animals include the emerald ash borer, which has been particularly troublesome in my home state of Ohio; the Chinese mitten crab; and hydrilla, considered to be one of the most problematic aquatic plants in the United States. If left unchecked, these and other invasive species pose dangerous environmental, health, and economic threats. Estimates of the annual economic damages caused by invasive species in this nation are as high as $137 billion. It is clear that more must be done.

To combat the serious threats posed by invasive species, we need federal coordination and planning. Our bill would provide just that and on a permanent basis. Under this legislation, the Secretaries of State, Commerce, Transportation, Agriculture, Health and Human Services, Interior, Defense, and Treasury, along with the Administrators of EPA and USAID, would continue to work together through the National Invasive Species Council to develop a National Invasive Species Management Plan.

The duties of the Council are generally to coordinate federal activities in an effective, complementary, cost-efficient manner; update the National Invasive Species Management Plan; ensure that federal agencies implement the Management Plan; and develop recommendations for international cooperation. Additionally, if recommendations are not implemented, agencies would have to report to the Council. The Council is directed to develop guidance for federal agencies on prevention, control, and eradication of invasive species so that federal programs and actions do not increase the risk of invasion or spread non-indigenous species. And finally, the bill would establish an Invasive Species Advisory Committee to the Council.

The National Invasive Species Council could enhance its effectiveness and better protect our environment from invasive species with a congressional mandate. I urge my colleagues to cosponsor this measure so that the Federal Government can better respond to the threat posed by invasive species.

By Mr. DEWINE (for himself, Mr. LEVIN, Ms. STABENOW, Mr. LUGAR, Mr. BAYH, Mr. DAYTON, and Mr. KOHL):

S. 508. A bill to provide for the environmental restoration of the Great Lakes; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, today I am proud to introduce the Great Lakes Environmental Restoration Act with my colleague, Senator LEVIN. I would like to thank him for all of his hard work on this legislation.

For those who have seen one of the five Great Lakes, it is not difficult to understand their importance. Covering more than 94,000 square miles and draining more than twice as much land, these freshwater seas hold an estimated six quadrillion gallons of water—or one-fifth of the world's surface freshwater. The Great Lakes ecosystem includes such diverse elements as northern evergreen and deciduous forests, lake plain prairies, and coastal wetlands. Over 30 of the basin's biological communities and over 100 species are globally rare or found only in the Great Lakes basin. The 637 State parks in the region accommodate more than 250 million visitors each year, and the Great Lakes basin is home to more than 33 million people—or one-tenth of the U.S. population.

As co-chairs of the Senate Great Lakes Task Force, Senator LEVIN and I have worked together on legislation and other initiatives to protect this natural resource. We secured funding from the National Oceanic and Atmospheric Administration (NOAA) for water level gauges, a replacement ice-breaking vessel, and funding for the Great Lakes Fishery Commission for sea lamprey control. Additionally, Senator LEVIN and I met with the U.S. Trade Representative Office in an effort to prevent Great Lakes water from being diverted abroad. We worked to authorize the Great Lakes Basin Soil Erosion and Sediment Control Program in the 2002 Farm Bill, and three years ago, we joined our colleagues in the House to pass the Great Lakes Legacy Act. This legislation provides up to $50 million per year to the Environmental Protection Agency (EPA) to remove contaminated sediments at Areas of Concern.

These steps are positive, but we are not keeping pace with the problems facing the Great Lakes—the Federal Government simply is not providing the funding to protect them. An April 2003 Government Accountability Office (GAO) report found that the Federal Government spent roughly $745 million over the last ten years on Great Lakes restoration programs. Now consider that the GAO reported that the eight Great Lakes States spent $956 million during that same ten-year period.

There is ample evidence that this current level of commitment is simply not enough to address the challenges. In 2001, there were approximately 600 beach closings as a result of e-coli bacteria. Further, State and local health authorities issued approximately 1,400 fish consumption advisories in the Great Lakes. In 1978, the United States and Canada amended the Great Lakes Water Quality Agreement to give priority attention to 43 designated Areas of Concern. Since the signing, the Federal Government has not been able to

remove any U.S. sites from the Areas of Concern list. Invasive species are one of the largest threats to the ecosystem and the $4.5 billion Great Lakes fishing industry. There are now over 160 aquatic invasive species threatening the Great Lakes. It is imperative that we fix these problems.

For several years, I have been calling for a plan to restore the Lakes. I have been urging the governors, mayors, the environmental community, and other regional interests to agree on a vision for the future of the Great Lakes—not just for the short-term, but for the long-term. It is time for us to come together to develop a plan and put it in place.

The bill we are introducing today builds upon the efforts by those in the Great Lakes states who are working with the congressional delegation and federal officials on the Great Lakes Regional Collaboration group. It provides the funding needed to implement their recommendations.

This legislation would provide the tools needed for the long-term future of the Great Lakes. First, our bill creates a $6 billion Great Lakes Restoration Grant Program to augment existing federal and state efforts to clean, protect, and restore the Great Lakes. An additional $600 million in annual funding will be appropriated through the EPA's Great Lakes National Program Office. The Program Office will provide grants to the Great Lakes States, municipalities, and other applicants in coordination with the Great Lakes Environmental Restoration Advisory Board. This funding will provide the extra resources that existing programs do not have.

While the Great Lakes are a national resource, leaders in the region, not Washington bureaucrats, should set priorities and guide restoration efforts. That is why our bill requires close coordination between the EPA and state and regional interests before grants are released. The Great Lakes Environmental Restoration Advisory Board, led by the Great Lakes governors, will include mayors, federal agencies, Native American tribes, environmentalists, industry representatives, and Canadian observers. This Advisory Board will prioritize restoration projects, such as invasive species control and prevention, wetlands restoration, contaminated sediments cleanup, and water quality improvements. Additionally, this Advisory Board will provide recommendations on which grant applications to fund. The input from the Advisory Board ensures that regional leaders will be critical in determining the long-term future of the Great Lakes.

As the April 2003 GAO study reported, environmental restoration activities in the Great Lakes suffer from lack of coordination. The second goal of this legislation is the codification of the Great Lakes Interagency Task Force to coordinate Federal activities in the Great Lakes region. The EPA's Great Lakes National Program Office would serve as the council leader, and participants would include key federal agencies involved in Great Lakes restoration efforts. The council would ensure that the efforts of federal agencies are coordinated, effective, and cost-efficient.

Lastly, this bill would help address a GAO recommendation that a monitoring system and environmental indicators be developed to measure progress on new and existing restoration programs in the Great Lakes.

Our bill is a major step in the right direction. I would again like to thank my colleague, Senator LEVIN, for his dedication to the Great Lakes and to their restoration. We need to continue to refocus and improve our efforts in order to reverse the trend of additional degradation of the Great Lakes. They are a unique natural resource for Ohio and the entire region—a resource that must be protected for future generations. I ask my colleagues to join me in support of this bill and in our efforts to help preserve and protect the long-term viability of our Great Lakes.

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

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

S. 508

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Great Lakes Environmental Restoration Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Great Lakes and the connecting channels of the Great Lakes form the largest freshwater system in the world, holding ⅕ of the fresh surface water supply of the world and 9⁄10 of the fresh surface water supply of the United States;

(2) 30 years after the date of enactment of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), water quality in the Great Lakes has improved, but the Great Lakes remain in a degraded state;

(3) evidence of the degraded environment of the Great Lakes includes—

(A) a record 599 closings of Great Lakes beaches in 2001;

(B) an increase to 20 percent in the percentage of Great Lakes shoreline that contains polluted sediments; and

(C) the issuance by State and local authorities of 1,400 fish consumption advisories relating to the Great Lakes;

(4) the Great Lakes are sources of drinking water for approximately 40,000,000 people in the United States and Canada;

(5) in the years since the Great Lakes Water Quality Agreement was signed and the United States and Canada agreed to ''restore and maintain the chemical, physical, and biological integrity of the waters of the Great Lakes Basin and give priority attention to the 43 designated Areas of Concern'', no sites have been restored in the United States;

(6) it is the responsibility of the Federal Government and State and local governments to ensure that the Great Lakes remain a clean and safe source of water for drinking, fishing, and swimming; and

(7) while the total quantity of resources needed to restore the Great Lakes is unknown, additional funding is needed now to augment existing efforts to address the known threats facing the Great Lakes.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Great Lakes Environmental Restoration Advisory Board established by section 5(a).

(2) GREAT LAKE.—The term ''Great Lake'' means—

(A) Lake Erie;

(B) Lake Huron (including Lake Saint Clair);

(C) Lake Michigan;

(D) Lake Ontario;

(E) Lake Superior; and

(F) the connecting channels of those Lakes, including—

(i) the Saint Marys River;

(ii) the Saint Clair River;

(iii) the Detroit River;

(iv) the Niagara River; and

(v) the Saint Lawrence River to the Canadian border.

(3) GREAT LAKES STATE.—The term ''Great Lakes State'' means each of the States of Illinois, Indiana, Ohio, Michigan, Minnesota, New York, Pennsylvania, and Wisconsin.

(4) GREAT LAKES SYSTEM.—The term ''Great Lakes system'' means all the streams, rivers, lakes, and other bodies of water in the drainage basin of the Great Lakes.

(5) PROGRAM.—The term ''Program'' means the Great Lakes Environmental Restoration Grant Program established by section 4(a).

(6) PROGRAM OFFICE.—The term ''Program Office'' means the Great Lakes National Program Office of the Environmental Protection Agency.

(7) TASK FORCE.—The term ''Task Force'' means the Great Lakes Interagency Task Force established by section 6(a).

SEC. 4. GREAT LAKES RESTORATION GRANTS.

(a) ESTABLISHMENT.—There is established a Great Lakes Environmental Restoration Grant Program, to be administered by the Program Office.

(b) GRANTS.—

(1) IN GENERAL.—In coordination with the Board, the Program Office shall provide to States, municipalities, and other applicants grants for use in and around the Great Lakes in carrying out—

(A) contaminated sediment cleanup;

(B) wetland restoration;

(C) invasive species control and prevention;

(D) coastal wildlife and fisheries habitat improvement;

(E) public access improvement;

(F) water quality improvement;

(G) sustainable water use;

(H) nonpoint source pollution reduction; or

(I) such other projects and activities to restore, protect, and assist the recovery of the Great Lakes as the Board may determine.

(2) DISTRIBUTION.—In providing grants under this section for a fiscal year, the Program Office shall ensure that—

(A) at least 1 project or activity is funded in each Great Lakes State for the fiscal year;

(B) the amount of funds received by each Great Lakes State under this section for the fiscal year is at least 6 percent, but not more than 30 percent, of the total amount of funds made available for grants under this section for the fiscal year;

(C) each project or activity for which funding is provided results in 1 or more tangible improvements in the Great Lakes watershed; and

(D) each project or activity for which funding is provided addresses 1 or more priority issue areas identified by the Board for the fiscal year.

(3) GRANT EVALUATION.—

(A) IN GENERAL.—In evaluating grant proposals, the Program Office shall give great

weight to the ranking of proposals by the Board under section 5(c)(3).

(B) DECISION NOT TO FUND.—Not later than 30 days after the date of the determination, if the Program Office decides not to fund a grant proposal ranked by the Board as 1 of the top 10 proposals meriting funding, the Program Office shall provide to the Board a written statement explaining the reasons why the proposal was not funded.

(4) FUNDING LIMITATIONS.—Funds provided under the Program shall not be used for any of the following activities:

(A) Design, construction, or improvement of a road, except as required in connection with a sewer upgrade.

(B) Design, implementation, or evaluation of a research or monitoring project or activity, except as required in connection with a project or activity that will result in a tangible improvement to the Great Lakes watershed.

(C) Design or implementation of a beautification project or activity that does not result in a tangible improvement to the Great Lakes watershed.

(D) Litigation expenses, including legal actions to address violations of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or any other environmental law or regulation.

(E) Lobbying expenses (as defined in section 2 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602)).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $600,000,000 for each of fiscal years 2006 through 2015.

(2) COST SHARING.—The Federal share of the cost of any project or activity carried out using funds made available under paragraph (1) shall not exceed 80 percent.

(3) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project or activity carried out using funds made available under paragraph (1) may be provided in cash or in kind.

SEC. 5. GREAT LAKES ENVIRONMENTAL RESTORATION ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a committee to be known as the ''Great Lakes Environmental Restoration Advisory Board''.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall be composed of 21 voting members (or designees of the members), of whom—

(A) 8 shall be the Governors of the Great Lakes States;

(B) 1 shall be the Director of the Great Lakes National Program Office;

(C) 1 shall be the Secretary of the Interior;

(D) 1 shall be the Director of the National Oceanic and Atmospheric Administration;

(E) 1 shall be the Chief of Engineers;

(F) 1 shall be the Secretary of Agriculture; and

(G) 8 shall be chief executives of cities, counties, or municipalities in the Great Lakes basin and selected by the Steering Committee of the Great Lakes Cities Initiative, including 1 member from each Great Lakes State.

(2) OBSERVERS.—The Board may include observers, including—

(A) the Premiers of the Canadian Provinces of Ontario and Quebec;

(B) a representative of the Government of Canada;

(C) a representative of the State Department;

(D) 8 representatives of environmental organizations (with 1 member appointed by the Governor of each Great Lakes State), including—

(i) Great Lakes United;

(ii) the Lake Michigan Federation;

(iii) the National Wildlife Federation;

(iv) the Sierra Club; and

(v) The Nature Conservancy;

(E) 5 representatives of industry selected by the chairperson of the Board;

(F) the Chairperson of the United States section of the International Joint Committee;

(G) the Vice Chairperson of the United States section of the Great Lakes Fishery Commission;

(H) the Chairperson of the Great Lakes Commission; and

(I) 3 representatives of Native Americans selected by the President.

(3) DATE OF APPOINTMENTS.—The appointment of each member of the Board shall be made not later than 90 days after the date of enactment of this Act.

(4) TERM; VACANCIES.—

(A) TERM.—A member of the Board shall be appointed for 5 years.

(B) VACANCIES.—A vacancy on the Board—

(i) shall not affect the powers of the Board; and

(ii) shall be filled in the same manner as the original appointment was made.

(5) MEETINGS.—The Board shall meet at the call of the chairperson.

(6) CHAIRPERSON.—The Board shall select a chairperson of the Board from the members appointed under paragraph (1)(A).

(c) DUTIES.—

(1) IN GENERAL.—Before the beginning of the fiscal year, the Board shall determine by majority vote, and shall submit to the Program Office, the funding priority issue areas that shall apply to all grants provided under section 4 during the fiscal year.

(2) GREAT LAKES GOALS.—The priorities shall be based on environmental restoration goals for the Great Lakes that—

(A) are prepared by the Governors of Great Lakes States; and

(B) identify specific objectives and the best methods by which to produce a tangible improvement to the Great Lakes.

(3) GRANTS.—

(A) PROGRAM OFFICE.—The Program Office shall provide to the Board, in a timely manner, copies of grant proposals submitted under section 4.

(B) BOARD.—The Board shall—

(i) review the grant proposals; and

(ii) by a date specified by the Program Office, provide to the Program Office a list of the grant applications that the Board recommends for funding, ranked in order of the applications that most merit funding.

SEC. 6. GREAT LAKES INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT.—There is established, in the Environmental Protection Agency, the Great Lakes Interagency Task Force.

(b) PURPOSES.—The purposes of the Task Force are—

(1) to help establish a process for collaboration among the members of the Task Force, the members of the working group established under subsection (e)(1), the Great Lakes States, local communities, tribes, regional bodies, and other interests in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes system;

(2) to collaborate with Canada and binational bodies involved in the Great Lakes region regarding policies, strategies, projects, and priorities for the Great Lakes system;

(3) to coordinate the development of consistent Federal policies, strategies, projects, and priorities for addressing the restoration and protection of the Great Lakes system and assisting in the appropriate management of the Great Lakes system;

(4) to develop outcome-based goals for the Great Lakes system relying on—

(A) existing data and science-based indicators of water quality and related environmental factors, and other factors;

(B) focusing on outcomes such as cleaner water, sustainable fisheries, and biodiversity of the Great Lakes system; and

(C) ensuring that Federal policies, strategies, projects, and priorities support measurable results;

(5) to exchange information regarding policies, strategies, projects, and priorities related to the Great Lakes system between the agencies represented on the Task Force;

(6) to coordinate action of the Federal Government associated with the Great Lakes system;

(7) to ensure coordinated Federal scientific and other research associated with the Great Lakes system;

(8) to ensure coordinated development and implementation of the Great Lakes portion of the Global Earth Observation System of Systems by the Federal Government; and

(9) to provide assistance and support to agencies represented on the Task Force in the activities of the agencies related to the Great Lakes system.

(c) MEMBERSHIP AND OPERATION.—

(1) IN GENERAL.—The Task Force shall consist of—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of State;

(C) the Secretary of the Interior;

(D) the Secretary of Agriculture;

(E) the Secretary of Commerce;

(F) the Secretary of Housing and Urban Development;

(G) the Secretary of Transportation;

(H) the Secretary of Homeland Security;

(I) the Secretary of the Army; and

(J) the Chairperson of the Council on Environmental Quality.

(2) OPERATION.—A member of the Task Force may designate to perform the Task Force functions of the member any person who is part of the department, agency, or office of the member and who is—

(A) an officer of the United States appointed by the President; or

(B) a full-time employee of the United States serving in a position with pay equal to or great than the minimum rate payable for grade GS-15 of the General Schedule.

(d) CHAIRPERSON.—The Administrator of the Environmental Protection Agency shall serve as chairperson of the Task Force.

(e) DUTIES.—

(1) GREAT LAKES REGIONAL WORKING GROUP.—

(A) IN GENERAL.—The Task Force shall establish a Great Lakes regional working group to coordinate and make recommendations on how to implement the policies, strategies, projects, and priorities of the Task Force.

(B) MEMBERSHIP.—The working group established under subparagraph (A) shall consist of the appropriate regional administrator or director with programmatic responsibility for the Great Lakes system for each agency represented on the Task Force, including—

(i) the Great Lakes National Program Office of the Environmental Protection Agency;

(ii) the United States Fish and Wildlife Service of the Department of the Interior;

(iii) the National Park Service of the Department of the Interior;

(iv) the United States Geological Survey of the Department of the Interior;

(v) the Natural Resources Conservation Service of the Department of Agriculture;

(vi) the Forest Service of the Department of Agriculture;

(vii) the National Oceanic and Atmospheric Administration of the Department of Commerce;

(viii) the Department of Housing and Urban Development;

(ix) the Department of Transportation;

(x) the Coast Guard in the Department of Homeland Security; and

(xi) the Corps of Engineers.

(2) PRINCIPLES OF SUCCESSFUL REGIONAL COLLABORATION.—The chairperson of the Task Force shall coordinate the development of a set of principles of successful regional collaboration to advance the policy set forth in section 1 of the Great Lakes Interagency Task Force: Executive Order dated May 18, 2004.

(3) REPORT.—Not later than May 31, 2005, and annually thereafter as appropriate, the Task Force shall submit to the President a report that—

(A) summarizes the activities of the Task Force; and

(B) provides any recommendations that would, in the judgment of the Task Force, advance the policy set forth in section 1 of the Great Lakes Interagency Task Force: Executive Order dated May 18, 2004.

SEC. 7. GREAT LAKES WATER QUALITY INDICATORS AND MONITORING.

(a) IN GENERAL.—Section 118(c)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B)(i) not later than 2 years after the date of enactment of this clause, in cooperation with Canada and appropriate Federal agencies (including the United States Geological Survey, the National Oceanic and Atmospheric Administration, and the United States Fish and Wildlife Service), develop and implement a set of science-based indicators of water quality and related environmental factors in the Great Lakes, including, at a minimum, measures of toxic pollutants that have accumulated in the Great Lakes for a substantial period of time, as determined by the Program Office;

''(ii) not later than 4 years after the date of enactment of this clause—

''(I) establish a Federal network for the regular monitoring of, and collection of data throughout, the Great Lakes basin with respect to the indicators described in clause (i); and

''(II) collect an initial set of benchmark data from the network; and

''(iii) not later than 2 years after the date of collection of the data described in clause (ii)(II), and biennially thereafter, in addition to the report required under paragraph (10), submit to Congress, and make available to the public, a report that—

''(I) describes the water quality and related environmental factors of the Great Lakes (including any changes in those factors), as determined through the regular monitoring of indicators under clause (ii)(I) for the period covered by the report; and

''(II) identifies any emerging problems in the water quality or related environmental factors of the Great Lakes.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by striking subsection (h) and inserting the following:

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section (other than subsection (c)(1)(B)) $25,000,000 for each of fiscal years 2006 through 2010.

''(2) GREAT LAKES WATER QUALITY INDICATORS AND MONITORING.—There are authorized to be appropriated to carry out subsection (c)(1)(B)—

''(A) $4,000,000 for fiscal year 2006;

''(B) $6,000,000 for fiscal year 2007;

''(C) $8,000,000 for fiscal year 2008; and

''(D) $10,000,000 for fiscal year 2009.''.

By Mrs. FEINSTEIN (for herself, Mr. LEVIN, Mr. WYDEN, Mr. HARKIN, and Ms. CANTWELL):

S. 509. A bill to improve the operation of energy markets; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, in light of the most recent evidence uncovered about Enron's participation in the Western Energy Crisis, I rise today to introduce the Energy Market Oversight Bill with Senators LEVIN, HARKIN, CANTWELL and WYDEN.

This bill would: Improve Price Transparency in Wholesale Electricity Markets. The bill directs the Federal Energy Regulatory Commission to establish an electronic system to provide information about the price and availability of wholesale electricity to buyers, and sellers, and the public.

Prohibit Round Trip Electricity Trades. The bill prohibits the simultaneous buying and selling of the same quantity of electricity at the same price in the same location with no financial gain or loss. Round trip or ''wash trades'' are essentially bogus trades whereby no electricity changes hands, but the profit from the trades enriches the bottom-line of a company's financial report.

Increase Penalties for Violations of Federal Power Act. Maximum fines for violations of the Federal Power Act are increased from $5,000 to $1,000,000.; and maximum sentences are increased from 2 to 5 years. Current fines are extraordinarily low and therefore provide no deterrence to illegal activity.

Increase Penalties for Violations of Natural Gas Act. The bill increases maximum fines for violations of the Natural Gas Act from $5,000 to $1,000,000.

Prohibit Manipulation in Electricity Markets. Manipulation is prohibited in the wholesale electricity markets and FERC is given discretionary authority to revoke market-based rates for violations. Strangely enough, manipulation of energy markets is not specifically prohibited. This would add language to Part II of the Federal Power Act.

Repeal the ''Enron exemption''. Repeals the Commodities Future Modernization Act exemption for large traders in energy commodities and applies the anti-manipulation and anti-fraud provisions of the Commodities Exchange Act to all Over the Counter trades in energy commodities and derivatives. In my view, when Congress exempted energy from the Commodity Futures Modernization Act of 2000, it created the playing field for the Western Energy Crisis of 2000 and 2001, and cost millions of people millions of dollars.

Provide CFTC the Tools to Monitor OTC Energy Markets. For Over the Counter trades in energy commodities and derivatives that perform a significant price discovery function, including trades on electronic trading facilities, the bill requires large sophisticated traders to keep records and report large trades to the CFTC. This does not change the law, only applies the law that exists for futures contracts to over the counter trades in the energy markets.

Limit on Use of Data. Requires the Commodity Futures Trading Commission to seek information that is necessary for the limited purposes of detecting and preventing manipulation in the futures and over the counter markets for energy; to keep proprietary trade and business data confidential except when used for law enforcement purposes. This does not require the real-time publication of proprietary data.

No Effect on Non-Energy Commodities or Derivatives. The bill would not alter or affect the regulation of futures markets, financial derivatives, or metals. We have specifically stated on page 20 the following: ''The amendments made by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act.''

In addition, the bill states: ''The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act.''

The Western Energy Crisis of 2000–2001 has still not been resolved. Meanwhile, more and more information about Enron's role in the crisis emerges. On February 3, 2005, the Snohomish Public Utility District released transcripts of tapes showing that on January 17, 2001, Enron traders concocted false repairs for a Las Vegas power plant—making power unavailable that would have been delivered to California—on the very same day that supplies were so tight that Northern California experienced a Stage 3 power emergency and rolling blackouts hit as many as 2 million consumers.

By taking the plant offline, Enron was also in direct violation of an Emergency Power Order by U.S. Energy Secretary Bill Richardson that required power generators to make power available to California.

Telephone transcripts between Enron and the Las Vegas plant confirming the effort to falsify repairs read as follows:

BILL: Rich: Ah, we want you guys to get a little creative.

RICH: OK.

BILL: And come up with a reason to go down.

RICH: OK.

BILL: Anything you want to do over there? Any——

RICH: Ah——

BILL: Cleaning, anything like that?

RICH: Yeah, Yeah. There's some stuff we could be doing.

Enron knew exactly what it was doing when it manipulated the Western Energy markets. Enron traders tested gaming techniques in the California market as early as May 1998, creating imbalances in the California market as a result of loopholes it discovered in the system.

The schemes the company used in 2000–2001 had already been rehearsed in

Canada. ''Project Stanley'' was one such technique—Enron traders inflated energy prices in Alberta, Canada by colluding with other energy marketers.

Enron advocated for ''de-regulation'' of California's energy markets while drafting language that was full of loopholes it could exploit. Similarly, the company was the main force behind a provision that exempted it from federal oversight. This exemption, known as the ''Enron loophole,'' was created in 2000 when Congress passed the Commodity Futures Modernization Act.

The loophole exempted energy trading from regulatory oversight and excluded it completely if the trade was done electronically.

We must close this loophole in order to prohibit fraud and price manipulation in all over-the-counter energy commodity transactions, and provide the Commodity Futures Trading Commission the authority it needs to investigate and prosecute allegations of fraud and manipulation.

We need to give the CFTC this authority because we learned during the Western Energy Crisis that there was pervasive manipulation and fraud in energy markets, and that FERC and the CFTC were unable or unwilling to use the authority they had to intervene.

We need to give the CFTC this authority because we need regulators to protect consumers and make sure they're not taken advantage of.

We need to give the CFTC this authority because when there are inadequate regulations, consumers are ripped off.

The Western Energy Crisis cost California about $40 billion. California has been asking for $9 billion in refunds. However, given the fact that Enron is in bankruptcy, it would be a miracle if the State receives even half of that amount.

Yet there is nothing preventing another energy crisis from happening again, in my State or elsewhere.

Therefore, we need Federal oversight of our energy markets.

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

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

S. 509

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 ''Energy Markets Improvement Act of 2005''.

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

TITLE I—TRANSPARENCY IN WHOLESALE ELECTRICITY MARKETS

SEC. 101. MARKET TRANSPARENCY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. MARKET TRANSPARENCY.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate regulations establishing an electronic information system to provide the Commission and the public with access to such information as is appropriate to facilitate price transparency and participation in markets subject to the jurisdiction of the Commission.

''(b) INFORMATION TO BE MADE AVAILABLE.—

''(1) IN GENERAL.—The system under subsection (a) shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

''(2) PROTECTION OF CONSUMERS AND COMPETITIVE MARKETS.—In determining the information to be made available under the system and the time at which to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from false or misleading information and from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

''(c) AUTHORITY TO OBTAIN INFORMATION.—The Commission shall have authority to obtain information described in subsections (a) and (b) from any electric utility or transmitting utility (including any entity described in section 201(f)).

''(d) EXEMPTION.—The Commission shall exempt from disclosure information that the Commission determines would, if disclosed—

''(1) be detrimental to the operation of an effective market; or

''(2) jeopardize system security.

''(e) APPLICABILITY.—The system under subsection (a) shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).''.

SEC. 102. ROUND TRIP TRADING.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 101) is amended by adding at the end the following:

''SEC. 216. ROUND TRIP TRADING.

''(a) PROHIBITION.—It shall be unlawful for any person or entity (including an entity described in section 201(f)) knowingly to enter into any contract or other arrangement to execute a round trip trade.

''(b) DEFINITION OF ROUND TRIP TRADE.—In this section, the term 'round trip trade' means a transaction (or combination of transactions) in which a person or entity, with the intent to affect reported revenues, trading volumes, or prices—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or entity electric energy at wholesale; and

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with the other person or entity for the same electric energy at substantially the same location, price, quantity, and terms so that, collectively, the purchase and sale transactions in themselves result in a de minimis or no financial gain or loss.''.

SEC. 103. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) in the first sentence—

(A) by inserting ''(including an electric utility)'' after ''Any person''; and

(B) by inserting '', transmitting utility,'' after ''licensee''; and

(2) in the second sentence, by inserting '', transmitting utility,'' after ''licensee''.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended in the first sentence by inserting ''(including a transmitting utility)'' after ''any person''.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825*l*) is amended in the first sentence by inserting ''(including an electric utility)'' after ''Any person''.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825*o*) is amended—

(1) in subsection (a)—

(A) by striking ''$5,000'' and inserting ''$1,000,000''; and

(B) by striking ''two years'' and inserting ''5 years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

(f) GENERAL PENALTIES.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''5 years''; and

(2) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

SEC. 104. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended—

(1) in the second sentence, by striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' and inserting ''the date of the filing of the complaint nor later than 5 months after the filing of the complaint'';

(2) in the third sentence—

(A) by striking ''60 days after the'' and inserting ''of''; and

(B) by striking ''expiration of such 60-day period'' and inserting ''publication date''; and

(3) by striking the fifth sentence and inserting the following: ''If no final decision is rendered by the conclusion of the 180-day period that begins on the date of institution of a proceeding under this section, the Commission shall state the reasons why the Commission has failed to do so and shall state its best estimate as to when the Commission reasonably expects to render a final decision.''.

SEC. 105. DISCOVERY AND EVIDENTIARY HEARINGS UNDER THE FEDERAL POWER ACT.

The Federal Power Act is amended—

(1) in section 206 (16 U.S.C. 824e), by adding at the end the following:

''(e) DISCOVERY AND EVIDENTIARY HEARINGS.—On receipt of a complaint by a State or a State Commission under subsection (a), the Commission shall provide—

''(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

''(2) on request of the State or the State Commission and a showing of a dispute as to material facts, an evidentiary hearing.''; and

(2) in section 306 (16 U.S.C. 825e)—

(A) by inserting ''(a) IN GENERAL.—'' before ''Any person''; and

(B) by adding at the end the following:

''(b) DISCOVERY AND EVIDENTIARY HEARINGS.—On receipt of a complaint by a State or State Commission under this section, the Commission shall provide—

''(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

''(2) on request of the State or the State Commission and a showing of dispute as to material facts, an evidentiary hearing.''.

TITLE II—MARKET MANIPULATION

SEC. 201. PROHIBITION OF MARKET MANIPULATION.

(a) IN GENERAL.—Part II of the Federal Power Act (as amended by section 102) is amended by adding at the end the following:

''SEC. 217. PROHIBITION OF MARKET MANIPULATION.

''(a) IN GENERAL.—It shall be unlawful for any person, directly or indirectly, to knowingly use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance to affect the price, availability, or reliability of the electric energy or transmission services.

''(b) REGULATIONS.—The Commission may promulgate regulations as appropriate in the public interest or for the protection of electric ratepayers to enforce this section.''.

(b) ADDITIONAL REMEDY FOR MARKET MANIPULATION.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(e) REMEDY FOR MARKET MANIPULATION.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of this Act (including a regulation promulgated under this Act), the Commission may, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.''.

TITLE III—ENERGY MARKET OVERSIGHT

SEC. 301. OVER-THE-COUNTER TRANSACTIONS IN ENERGY COMMODITIES.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

''(34) INCLUDED ENERGY TRANSACTION.—The term 'included energy transaction' means a contract, agreement, or transaction in an energy commodity that is—

''(A)(i) executed or traded on an electronic trading facility; and

''(ii) entered into on a principal-to-principal basis solely between persons that are eligible commercial entities at the time the persons enter into the agreement, contract, or transaction; or

''(B)(i) executed or traded not on or through a trading facility; and

''(ii) entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction, regardless of the means of execution of the agreement, contract, or transaction.

''(35) ENERGY COMMODITY.—

''(A) IN GENERAL.—The term 'energy commodity' means a commodity (other than an excluded commodity, a metal, or an agricultural commodity) that is used as a source of energy.

''(B) INCLUSIONS.—The term 'energy commodity' includes—

''(i) coal;

''(ii) crude oil, gasoline, heating oil, and propane;

''(iii) electricity; and

''(iv) natural gas.

''(36) ELECTRONIC ENERGY TRADING FACILITY.—The term 'electronic energy trading facility' means an electronic trading facility on or through which included energy transactions are traded or executed.''.

(b) OFF-EXCHANGE TRANSACTIONS IN ENERGY COMMODITIES.—Section 2(g) of the Commodity Exchange Act (7 U.S.C. 2(g)) is amended—

(1) by inserting ''or an energy commodity'' after ''agricultural commodity'';

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking ''No provision'' and inserting the following:

''(1) IN GENERAL.—No provision''; and

(4) by adding at the end the following:

''(2) TRANSACTIONS IN ENERGY COMMODITIES.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C) and subsection (h)(7), nothing in this Act applies to an included energy transaction.

''(B) PROHIBITED CONDUCT.—

''(i) IN GENERAL.—An included energy transaction shall be subject to—

''(I) sections 5b, 12(e)(2)(B), and 22(a)(4); and

''(II) the prohibitions in sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2).

''(ii) TRANSACTIONS EXEMPTED BY COMMISSION ACTION.—Notwithstanding any exemption by the Commission under section 4(c), an included energy transaction shall be subject to the sections specified in clause (i) of this subparagraph, subparagraph (C), and subsection (h)(7).

''(C) REPORTING AND RECORDKEEPING REQUIREMENTS.—

''(i) IN GENERAL.—An eligible contract participant that enters into or executes an included energy transaction that performs, or together with other such transactions performs, a significant price discovery function in the cash market for an energy commodity or in any other market for agreements, contracts, or transactions relating to an energy commodity, or an eligible commercial entity that enters into or executes an included energy transaction described in section 1a(34)(A) shall—

''(I) provide to the Commission on a timely basis the information required under clause (ii); and

''(II)(aa) consistent with section 4i, maintain books and records relating to each included energy transaction, for a period of at least 5 years after the date of the transaction, in such form as the Commission shall require; and

''(bb) keep the books and records open to inspection by any representative of the Commission or the Attorney General.

''(ii) REQUIRED INFORMATION.—

''(I) IN GENERAL.—The Commission shall require that such information regarding included energy transactions be provided to the Commission as the Commission considers necessary to assist in detecting and preventing price manipulation.

''(II) INFORMATION TO BE INCLUDED.—Such information shall include information regarding large trading positions obtained through 1 or more included energy transactions that involve—

''(aa) substantial quantities of the commodity in the cash market; or

''(bb) substantial positions, investments, or trades in agreements or contracts related to energy commodities.

''(III) MANNER OF COMPLIANCE.—The Commission shall specify when and how such information shall be provided and maintained by eligible contract participants and eligible commercial entities.

''(IV) PRICE DISCOVERY TRANSACTIONS.—

''(aa) IN GENERAL.—In specifying the information to be provided under this paragraph, the Commission shall identify the transactions or class of transactions that the Commission considers to perform a significant price discovery function.

''(bb) CONSIDERATIONS.—In determining which included energy transactions perform a significant price discovery function, the Commission shall consider the extent to which—

''(AA) standardized agreements are used to execute the transactions;

''(BB) the transactions involve standardized types or measures of a commodity;

''(CC) the prices of the transactions are reported to third parties, published, or disseminated;

''(DD) the prices of the transactions are referenced in other transactions; and

''(EE) other factors considered appropriate by the Commission.

''(V) PERSONS FILING.—

''(aa) IN GENERAL.—The Commission, in its discretion, may allow large trader position reports required to be provided by an eligible commercial entity to be provided by an electronic energy trading facility if the eligible commercial entity authorizes the facility to provide such information on its behalf.

''(bb) INFORMATION AND ENFORCEMENT.—Nothing in an authorization under item (aa) shall impair the ability of the Commission to obtain information from an eligible commercial entity or otherwise enforce this Act.

''(VI) REGULATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided and maintained under this subparagraph.''.

SEC. 302. ELECTRONIC TRADING FACILITIES FOR ENERGY COMMODITIES.

Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended—

(1) in paragraph (1), by inserting after ''an exempt commodity'' the following: ''other than an energy commodity'';

(2) in paragraph (3), by inserting after ''an exempt commodity'' the following: ''other than an energy commodity''; and

(3) by adding at the end the following:

''(7) ENERGY TRANSACTIONS.—

''(A) IN GENERAL.—To the extent that the Commission determines to be appropriate under subparagraph (C), an electronic energy trading facility shall—

''(i) be subject to the requirements of section 5a, to the extent provided in sections 5a(g) and 5d;

''(ii)(I) consistent with section 4i, maintain books and records relating to the business of the electronic energy trading facility, including books and records relating to each transaction in such form as the Commission may require; and

''(II) make the books and records required under this section available to representatives of the Commission and the Attorney General for inspection for a period of at least 5 years after the date of each included energy transaction;

''(iii) make available to the public information on trading volumes, settlement

prices, open interest (where applicable), and opening and closing ranges (or daily highs and lows, as appropriate) for included energy transactions; and

''(iv) provide the information to the Commission in such form and at such times as the Commission may require.

''(B) APPLICABILITY OF OTHER PROVISIONS.—

''(i) PARAGRAPH 5.—An electronic energy trading facility shall comply with paragraph (5).

''(ii) PARAGRAPH 6.—Paragraph (6) shall apply with respect to a subpoena issued to any foreign person that the Commission believes is conducting or has conducted transactions on or through an electronic energy trading facility.

''(C) REGULATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided, maintained, or made available to the public under subparagraphs (A) and (B).

''(8) NONDISCLOSURE OF PROPRIETARY INFORMATION.—In carrying out paragraph (7) and subsection (g)(2), the Commission shall not—

''(A) require the real-time publication of proprietary information;

''(B) prohibit the commercial sale or licensing of real-time proprietary information; or

''(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.''.

SEC. 303. NO EFFECT ON OTHER AUTHORITY.

(a) NO EFFECT ON FERC AUTHORITY.—Nothing contained in this title shall affect the jurisdiction of the Federal Energy Regulatory Commission with respect to the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.), the Natural Gas Act (15 U.S.C. 717 et seq.), or other law to obtain information or otherwise carry out the responsibilities of the Federal Energy Regulatory Commission.''.

(b) NO EFFECT ON EXCLUDED COMMODITIES.—The amendments made by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

(c) NO EFFECT ON METALS.—The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

SEC. 304. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

''(a) PROHIBITIONS.—

''(1) IN GENERAL.—It shall be unlawful (A) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, or (B) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of or with, any other person, other than on or subject to the rules of a designated contract market—

''(i) to cheat or defraud or attempt to cheat or defraud the other person;

''(ii) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

''(iii) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for (or, in the case of a contract described in subparagraph (B), with the other person); or

''(iv)(I) to bucket an order represented by the person as an order to be executed, for or on behalf of the other person, on an organized exchange; or

''(II) to—

''(aa) fill an order by offset against the order or orders of the other person; or

''(bb) willfully and knowingly and without the prior consent of the other person, to—

''(AA) become the buyer in respect to any selling order of the other person; or

''(BB) become the seller in respect to any buying order of the other person;

if the order is to be executed on or subject to the rules of a designated contract market.

''(2) LIMITATION.—This subsection does not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery with another person, to disclose to any other person nonpublic information that may be material to the market price of the commodity or transaction, except as necessary to make any statement made to the other person in connection with the transaction not misleading in any material respect.''.

SEC. 305. CRIMINAL AND CIVIL PENALTIES.

(a) ENFORCEMENT POWERS OF COMMISSION.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting ''(A)'' after ''assess such person''; and

(2) by inserting after ''each such violation'' the following: '', or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,''.

(b) MANIPULATIONS AND OTHER VIOLATIONS.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking ''paragraph (a) or (b) of section 9 of this Act'' and inserting ''subsection (a), (b), or (f) of section 9''; and

(2) by striking ''said paragraph 9(a) or 9(b)'' and inserting ''subsection (a), (b), or (f) of section 9''.

(c) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: '', or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation''; and

(2) in the second sentence, by inserting before the period at the end the following: '', except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)''.

(d) ACTION TO ENJOIN OR RESTRAIN VIOLATIONS.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by striking ''(d)'' and all that follows through the end of paragraph (1) and inserting the following:

''(d) CIVIL PENALTIES.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

''(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

''(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.''.

(e) VIOLATIONS GENERALLY.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by striking ''(or $500,000 in the case of a person who is an individual)'';

(2) by striking ''five years'' and inserting ''10 years''; and

(3) in paragraph (2), by striking ''false or misleading or knowingly inaccurate reports'' and inserting ''knowingly false, misleading, or inaccurate reports''.

SEC. 306. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking ''section 5b'' and inserting ''section 5a(g), 5b,'';

(2) in subsection (e)(1), by inserting ''(1)'' after ''(g)''; and

(3) in subsection (i)—

(A) in paragraph (1)—

(i) by striking ''No provision'' and inserting ''IN GENERAL.—Subject to subsections (g)(2) and (h)(7), no provision''; and

(ii) in subparagraph (A), by inserting ''(1)'' after ''2(g)''; and

(B) in paragraph (2), by striking ''No provision'' and inserting ''IN GENERAL.—Subject to subsections (g)(2) and (h)(7), no provision''.

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting '', or pursuant to an exemption under section 4(c)'' after ''transaction execution facility''.

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting ''or an electronic energy trading facility'' after ''direct the contract market'';

(2) by inserting after ''liquidation of any futures contract'' the following: ''or included energy transaction''; and

(3) by inserting ''or an electronic energy trading facility'' after ''given by a contract market''.

By Mr. WYDEN (for himself and Mr. TALENT):

S. 510. A bill to reduce and eliminate electronic waste through recycling; to the Committee on France.

Mr. WYDEN. Mr. President, the pace of technological innovation offers American consumers an eye-catching array of electronic gadgets. But for every new lap top or HDTV that goes home from the store with a consumer, an old computer or TV gets moved to the garage or shoved into the back of a closet. What to do with the growing amount of trash from the digital economy is a question that Senator TALENT and I believe must be addressed before our landfills are full and foreign countries close their ports to ships loaded down with old US computers. Today we are introducing bipartisan legislation to jumpstart a nationwide electronic waste recycling initiative.

When I was a member of the Commerce Committee, I helped write the

ground rules for the digital economy. My goal was to help create a climate that would spur the development of technology so it would become accessible and affordable to all Americans. This approach seems to be working. One measure of the success of the digital economy is the sheer number of computers and electronic gadgets that Americans own. Americans now spend more than $130 billion a year on electronics, from computers to HDTVs.

The boom in consumer spending on electronics and the growth in the digital economy are not without a downside. In one year alone, some 60 million computers and 20 million television sets become obsolete and more than 500 million computers will be discarded in the decade ending in 2007. These obsolete computers alone will result in over 6.3 billion pounds of plastic and 1.6 billion pounds of lead in our landfills or incinerators.

Electronic waste, or e-waste, is not even a blip on the radar screen of most policymakers. There have been a few news articles here and there, but so far they've been buried, well behind page one. I want to tackle the problem of e-waste in the same way we went about solving the Y–2K problem: putting policies in place to help all stakeholders deal with it before it overtakes us.

Some communities across the country have begun to talk about how to deal with the accumulation of electronic waste. A few States, like California and Maine, recently passed laws to get recycling programs going. Several other States, including my own State of Oregon, will likely consider legislation this year. Among the options, some States favor an upfront fee, tacked onto the price of electronics, intended to help pay for the cost of recycling, others are looking at end-of-life fees. No one yet has looked at the approach Senator TALENT and I are proposing.

My own sense is that slapping a fee on consumers for the purchase of a new computer or television is not necessarily the best way to encourage them to drag those old 80-pound computers and TVs out of the basement and get them to a recycling facility. Someone who needs a new one may just pay the fee but leave their old computers and TVs at home. End-of-life fees mean that today's manufacturers and retailers end up paying for e-trash left over from manufacturers that have gone out of business or from off-shore companies.

The bipartisan legislation Senator TALENT and I are introducing today, The Electronic Waste Recycling Promotion and Consumer Protection Act, takes a novel approach to the problem.

First, to get consumers motivated to move their old computers or televisions out of the garage and to a recycling facility, the bill would give them a one-time tax credit based on showing they gave their old computers or televisions to a qualified recycler.

Second, to build up the recycling infrastructure nationwide, the legislation would give manufacturers, retailers and qualified recyclers tax credits over a 3-year period, based on showing that they had recycled a certain amount of e-waste each year and done it in a way that is safe and environmentally sound.

Third, the bill would give the Environmental Protection Agency a year to come up with options for a nationwide e-waste recycling program that would, if approved by Congress, preempt State plans. Manufacturers, retailers and recyclers are going to find it increasingly difficult to deal with a crazy quilt of 50 different State e-waste recycling laws.

These are the incentives, but incentives without teeth won't work. So at the end of 3 years of tax credits, if EPA determines that there are enough recyclers in place, no one who operates a municipal solid waste facility could knowingly accept any computer, computer monitor or television unless the e-waste is to be recycled.

The bill would also ask EPA to consider the benefits of requiring manufacturers who sell computers and TVs to take them back for recycling. And, to make sure we're keeping our own house in order, the legislation would require the federal government to properly recycle its computers.

The goal here is to provide incentives to build a nationwide e-waste recycling infrastructure. EPA estimates that electronic waste already constitutes 40 percent of the lead and 70 percent of the heavy metals found in landfills today. If this waste is not handled properly, there is a real risk that toxins from the lead, mercury and cadmium will leach into the air, soil and water. The health effects of these toxins are well known and include an increased risk of cancer as well as harm to kidneys, the brain and the nervous system.

As one who has worked so hard to foster the digital economy, I believe there is also a duty to assure that e-waste is handled responsibly. Consumers need to know that potentially harmful e-waste is being handled properly and I can't find a reason to add millions of tons of new toxic waste to our environment.

I also believe that the United States, as the leading innovator and consumer of electronic products in the world, has a duty to deal with e-waste responsibly. Sending shiploads full of e-junk that contains harmful lead, mercury and cadmium to poor countries overseas is not my idea of responsible.

Senator TALENT and I have worked with a group of folks that normally don't see eye to eye on such issues. Through many hours of negotiation they have helped us produce a bill that represents a solid first step toward solving this problem. I am pleased that we have support for the approach taken in our legislation from environmental groups and industry groups, ranging from manufacturers like HP and Intel to retailers and solid waste recyclers, like Waste Management. We are committed to continuing to work with them to move the legislation through Congress.

In closing, electronic waste is not going away. It's time to put bipartisan policies in place that will jumpstart the creation of a nationwide e-waste recycling infrastructure so that consumers have access to recycling facilities and get in the habit of recycling these items. I've talked to manufacturers, retailers, recyclers, environmental and consumer groups and they tell me that this issue must be addressed now by a national rather than state-by-state approach. This bill is a commonsense, first step that will help us get a handle on the growing problem of electronic waste.

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

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

S. 510

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 ''Electronic Waste Recycling Promotion and Consumer Protection Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the National Safety Council estimates that—

(A) in 2003, over 60,000,000 personal computers became obsolete and between 1997 and 2007 more than 500,000,000 computers will need to be discarded; and

(B) at an average weight of 70 pounds, this will result in over 6,300,000,000 pounds of plastic and 1,600,000,000 pounds of lead added to the supply of waste needing to be managed;

(2) according to the Environmental Protection Agency—

(A) a computer monitor or television set generally contains 4 to 8 pounds of lead;

(B) mercury, cadmium, and other heavy metals are generally used in such equipment as well; and

(C) households and businesses in the United States often do not discard older computers and televisions when buying newer versions of the same products;

(3) according to experts, the average household may have between 2 and 3 older computers and televisions in storage, and approximately 20,000,000 to 24,000,000 computers and televisions are placed in storage each year;

(4) according to the Environmental Protection Agency, discarded computer, television, and other electronic equipment—

(A) when not discarded in large quantities, is currently managed in most States as municipal solid waste, just like ordinary trash; and

(B) constitute 40 percent of the lead and 70 percent of the heavy metals that are found in landfills and, if not handled properly, can be released into the environment, contaminating air and groundwater and posing a significant threat to human health, including potential damage to kidney, brain, and nervous system function, and cancer in cases of excessive exposure;

(5) materials used in computers, televisions, and similar electronic products can be recovered through recycling, which conserves resources and minimizes the potentially harmful human and environmental health effects of those materials; and

(6) establishing a nationwide infrastructure for electronic waste recycling will—

(A) facilitate access of people in the United States to recycling services; and

(B) improve the efficiency and use of electronic waste recycling.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CATHODE RAY TUBE.—The term ''cathode ray tube'' means a vacuum tube used to convert an electronic signal into a visual image, for use in a computer monitor, television, or other piece of electronic equipment.

(3) COMPUTER.—

(A) IN GENERAL.—The term ''computer'' means an electronic, magnetic, optical, electrochemical, or other high speed data processing device that performs logical, arithmetic, or storage functions.

(B) EXCLUSIONS.—The term ''computer'' does not include an automated typewriter or typesetter, video game console, portable hand held calculator, personal digital assistant, cellular telephone, or other similar device.

(4) CONSUMER.—The term ''consumer'' means—

(A) an occupant of a single, detached dwelling unit or a single unit of a multiple dwelling unit who—

(i) has used a computer monitor, a television, or another piece of electronic equipment that contains a display screen or a system unit; and

(ii) used the equipment described in subparagraph (A) at the dwelling unit of the occupant; and

(B) a commercial, educational, or other entity that discarded for recycling not more than 20 display screens or system units per year during the previous 5 years.

(5) DISPLAY SCREEN—

(A) IN GENERAL.—The term ''display screen'' means a cathode ray tube, flat panel screen, or other similar video display device with a screen size of greater than 4 inches, measured diagonally.

(B) EXCLUSION.—The term ''display screen'' does not include commercial or industrial equipment, or household appliances, that contain—

(i) a cathode ray tube;

(ii) a flat panel screen; or

(iii) another similar video device.

(6) HAZARDOUS WASTE.—The term ''hazardous waste'' has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(7) RECYCLE—The term ''recycle'' means the performance of a process by 1 or more persons by which a display screen or a system unit is—

(A) sorted;

(B) if necessary, transported;

(C) to the maximum extent practicable, separated to recover any component or commodity inside the display screen or system unit that can be reduced to raw materials or products; and

(D) treated such that any remaining material is disposed of properly and in an environmentally sound manner consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(8) SYSTEM UNIT.—The term ''system unit'' means—

(A) the casing or portion of a computer that contains the central processing unit, which performs the primary quantity of data processing; and

(B) the unit that, together with the memory, forms the central part of the computer, to which peripheral devices may be attached.

(9) UNIVERSAL WASTE.—The term ''universal waste'' has the meaning given the term in the Environmental Protection Agency Standards of Universal Waste Management established under section 273 of title 40, Code of Federal Regulations (and successor regulations).

SEC. 4. CREDIT FOR RECYCLING ELECTRONIC WASTE.

(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. 30B. CREDIT FOR RECYCLING ELECTRONIC WASTE.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $8 per unit of qualified electronic waste that is collected from consumers and recycled.

''(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means any person which—

''(1) collects from consumers and recycles, or arranges for the recycling of, not less than 5,000 units of qualified electronic waste during that person's taxable year,

''(2) submits with the person's tax return documentation of the final destination of all units of electronic waste collected from consumers during the person's taxable year for the purpose of recycling, and

''(3) certifies that all reclamation and recycling carried out by the person was performed by an eligible recycler.

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

''(1) QUALIFIED ELECTRONIC WASTE.—The term 'qualified electronic waste' means any display screen or any system unit.

''(2) CONSUMER, DISPLAY SCREEN; RECYCLE; SYSTEM UNIT.—The terms 'consumer', 'display screen', 'recycle', and 'system unit' have the meaning given the terms by section 3 of the Electronic Waste Recycling Promotion and Consumer Protection Act.

''(d) DISALLOWANCE OF CREDIT.—No credit shall be allowed under this section for recycling a unit of qualified electronic waste which is collected from a consumer in a State which has adopted and implemented a statewide program in accordance with State law which mandates or provides incentives for recycling electronic waste, including a mandatory per-unit, upfront charge to consumers for the purpose of recycling electronic waste.

''(e) FINAL REGULATIONS.—

''(1) IN GENERAL.—Not later than the date which is 180 days after the date of the enactment of this section, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall issue such final regulations as may be necessary and appropriate to carry out this section.

''(2) INCLUSION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the regulations issued under paragraph (1) shall include—

''(i) requirements for certifying recyclers as eligible to recycle qualified electronic waste,

''(ii) requirements to ensure that all recycling of qualified electronic waste is performed in a manner that is safe and environmentally sound, and

''(iii) a provision which allows a tax credit under this section to be shared by 2 or more eligible taxpayers, provided that the total tax credit for a unit of electronic waste under this section does not exceed $8.

''(B) LIMITATION.—The Secretary shall not certify a recycler as eligible under this subsection unless the recycler is—

''(i) a taxpayer, or

''(ii) a State or local government.

''(f) TERMINATION.—This section shall not apply with respect to any unit of qualified electronic waste which is recycled after the date which is 3 years after the date on which the final regulations issued pursuant to subparagraph (e) take effect.''.

(b) CONFORMING AMENDMENT.—The table of sections for 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 item:

''Sec. 30B. Credit for recycling electronic waste.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to display screens and system units recycled after the date on which the final regulations issued pursuant to section 30B of subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (as added by this section) take effect.

SEC. 5. CONSUMER CREDIT FOR RECYCLING ELECTRONIC WASTE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

''SEC. 25C. CONSUMER CREDIT FOR RECYCLING ELECTRONIC WASTE.

''(a) ALLOWANCE OF CREDIT.—In the case of an eligible consumer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to $15 for the recycling of 1 or more units of qualified electronic waste.

''(b) ELIGIBLE CONSUMER.—For purposes of this section, the term 'eligible consumer' means any individual—

''(1) with respect to whom a credit under this section has not been allowed in any preceding taxable year, and

''(2) who submits with the individual's tax return such information as the Secretary requires to document that each unit of qualified electronic waste was recycled by a recycler certified by the Secretary pursuant to subsection (d).

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

''(1) QUALIFIED ELECTRONIC WASTE.—The term 'qualified electronic waste' means any display screen or any system unit.

''(2) CONSUMER, DISPLAY SCREEN; RECYCLE; SYSTEM UNIT.—The terms 'consumer', 'display screen', 'recycle', and 'system unit' have the meaning given the terms by section 3 of the Electronic Waste Recycling Promotion and Consumer Protection Act.

''(d) FINAL REGULATIONS.—

''(1) IN GENERAL.—Not later than the date which is 180 days after the date of the enactment of this section, the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall issue such final regulations as may be necessary and appropriate to carry out this section.

''(2) INCLUSION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the regulations issued under paragraph (1) shall include—

''(i) requirements for certifying recyclers as eligible to recycle qualified electronic waste, and

''(ii) requirements to ensure that all recycling of qualified electronic waste is performed in a manner that is safe and environmentally sound.

''(B) LIMITATION.—The Secretary shall not certify a recycler as eligible under this subsection unless the recycler is—

''(i) a taxpayer, or

''(ii) a State or local government.

''(e) TERMINATION.—This section shall not apply with respect to any unit of qualified electronic waste which is recycled after the date which is 3 years after the date on which

the final regulations issued pursuant to subsection (d) take effect.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 26(a)(1) of the Internal Revenue Code of 1986 is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Consumer credit for recycling electronic waste.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to display screens and system units recycled after the date on which the final regulations issued pursuant to section 30B of subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (as added by this section) take effect.

SEC. 6. PROHIBITIONS OF DISPOSAL WITHOUT RECYCLING.

(a) DISPLAY SCREEN AND SYSTEM UNIT DISPOSAL BAN.—

(1) IN GENERAL.—Effective beginning on the date that is 3 years after the date of enactment of this Act, if the Administrator determines that a majority of households in the United States have sufficient access to a recycling service for display screens and system units, it shall be unlawful for the operator of a landfill, incinerator, or any other facility for the transfer, disposal, or storage of municipal solid waste to knowingly receive from a consumer a display screen or system unit, except for the purpose of recycling or arranging for the recycling of the display screen or system unit by a recycler certified as an eligible recycler by the Administrator.

(2) PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop and issue guidelines covering waste handlers and waste transfer stations to assist in developing recycling procedures for display screens and system units.

(3) EXEMPTIONS.—As part of the guidelines issued pursuant to paragraph (2), the Administrator shall classify display screens and system units as universal waste and provide for the exemption of display screens and system units from the requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) as necessary to facilitate the collection, storage, and transportation of display screens and system units for the purpose of recycling.

(b) ENFORCEMENT.—A violation of subsection (a) by any person or entity shall be subject to enforcement under applicable provisions of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 7. RECYCLING OF DISPLAY SCREENS AND SYSTEM UNITS PROCURED BY THE FEDERAL GOVERNMENT.

(a) DEFINITION OF EXECUTIVE AGENCY.—In this section, the term ''executive agency'' has the meaning given the term in section 11101 of title 40, United States Code.

(b) REQUIREMENT FOR RECYCLING.—The head of each executive agency shall ensure that each display screen and system unit procured by the Federal Government—

(1) is recovered upon the termination of the need of the Federal Government for the display screen or system unit; and

(2) is recycled by a recycler certified as an eligible recycler by the Administrator through—

(A) a program established after the date of enactment of this Act by the executive agency, either alone or in conjunction with 1 or more other executive agencies; or

(B) any other program for recycling or reusing display screens and system units.

SEC. 8. NATIONWIDE RECYCLING PROGRAM.

(a) STUDY.—

(1) IN GENERAL.—The Administrator, in consultation with appropriate executive agencies (as determined by the Administrator), shall conduct a study of the feasibility of establishing a nationwide recycling program for electronic waste that preempts any State recycling program.

(2) INCLUSIONS.—The study shall include an analysis of multiple programs, including programs involving—

(A) the collection of an advanced recycling fee;

(B) the collection of an end-of-life fee;

(C) producers of electronics assuming the responsibility and the cost of recycling electronic waste; and

(D) the extension of a tax credit for recycling electronic waste.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report describing—

(1) the results of the study conducted under subsection (a);

(2) 1 or more prospective nationwide recycling programs, including—

(A) a cost-benefit analysis of each program, including—

(i) the cost of the program to—

(I) consumers;

(II) manufacturers;

(III) retailers; and

(IV) recyclers; and

(ii) the estimated overhead and administrative expenses of carrying out and monitoring the program; and

(B) the quantity of display screens and system units projected to be recycled under the program;

(3)(A) the benefits of establishing a nationwide take-back provision that would require, as part of the program, all manufacturers of display screens or system units for sale in the United States to collect and recycle, or arrange for the recycling of, display screens and system units; and

(B) a projection of the quantity of display screens and system units that would be recycled annually under a nationwide take-back provision;

(4)(A) any emerging electronic waste streams, such as—

(i) cellular telephones; and

(ii) personal digital assistants; and

(B) a cost-benefit analysis of including an emerging electronic waste stream in a national recycling program; and

(5) the progress of the Administrator in carrying out section 6, including—

(A) information on enforcement of the prohibition; and

(B) any increase in recycling as a result of the prohibition.

By Mr. DEMINT (for himself, Mr. ALLEN, Mr. BROWNBACK, Mr. COBURN, Mr. ENSIGN, Mr. ENZI, Mr. INHOFE, Mr. SANTORUM, and Mr. VITTER):

S. 511. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU–486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEMINT. Mr. President, I rise today to reintroduce ''Holly's Law,'' a bill that would suspend FDA's approval of RU–486 and direct the GAO to conduct an independent review of the process used by the FDA to approve the drug.

Holly's Law is named in memory of Holly Patterson, an 18-year old woman who died after taking the drug in 2003. RU–486 has killed three women in the United States and many more have been hospitalized with a severe bacterial infection known as septic shock.

RU–486 was approved by the FDA in September of 2000. The FDA approved RU–486 under a special ''restricted distribution'' approval process known as ''Subpart H,'' reserved only for drugs that treat ''severe or life-threatening illnesses,'' like cancer and AIDS.

Subpart H allows an expedited approval of certain drugs by not subjecting them to the testing and review standards required of all other new drugs. These are important tests necessary to determine the safety and long-term effects of a drug. Clearly, the fact that these tests were not done on RU–486 was a damaging omission considering the death and illness associated with use of the drug.

Due to the serious threat RU–486 poses to women's health, we are asking that Congress suspend FDA's approval of RU–486 until the GAO can provide a report on whether RU–486 should have been deemed ''safe and effective'' by the FDA.

I am grateful to Senators ALLEN, BROWNBACK, COBURN, ENSIGN, ENZI, INHOFE, SANTORUM and VITTER who have joined me as original cosponsors of this bill. They understand that RU–486 is a dangerous drug that cannot remain on the market while more women die. I urge my colleagues to support Holly's Law to take RU–486 off the market before more women are harmed by it.

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

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

S. 511

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 ''RU–486 Suspension and Review Act of 2005''.

SEC. 2. FINDING.

Congress finds that the use of the drug mifepristone (marketed as Mifeprex, and commonly known as RU–486) in conjunction with the off-label use of misoprostol to chemically induce abortion has caused a significant number of deaths, near deaths, and adverse reactions.

SEC. 3. SUSPENSION OF APPROVAL OF DRUG COMMONLY KNOWN AS RU–486; REVIEW AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.

(a) IN GENERAL.—Effective on the date that is 15 days after the date of the enactment of this Act:

(1) The approved application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) for the drug mifepristone (marketed as Mifeprex, and

commonly known as RU–486) is deemed to have been withdrawn under section 505(e) of such Act (21 U.S.C. 355(e)).

(2) For purposes of sections 301(d) and 304 of such Act (21 U.S.C. 331(d) and 334), the introduction or delivery for introduction of such drug into interstate commerce shall be considered a violation of section 505 of such Act.

(3) The drug misoprostol shall be considered misbranded for purposes of sections 301 and 304 of such Act if the drug bears labeling providing that the drug may be used for the medical termination of intrauterine pregnancy or that the drug may be used in conjunction with another drug for the medical termination of intrauterine pregnancy.

(b) REVIEW AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) IN GENERAL.—The Comptroller General of the United States shall review the process by which the Food and Drug Administration approved mifepristone under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and shall determine whether such approval was provided in accordance with such section. The Secretary of Health and Human Services shall ensure that the Comptroller General has full access to all information possessed by the Department of Health and Human Services that relates to such process.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall complete the review under paragraph (1) and submit to Congress and the Secretary of Health and Human Services a report that provides the findings of the review.

(c) CONTINGENT REINSTATEMENT OF APPROVAL OF DRUG.—If the report under subsection (b) includes a determination by the Comptroller General of the United States that the approval by the Food and Drug Administration of mifepristone was provided in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), the Secretary of Health and Human Services shall publish such statement in the Federal Register. Effective upon the expiration of 30 days after such publication, subsection (a) shall cease to have any legal effect.

By Mr. SANTORUM (for himself, Mr. ROCKEFELLER, and Mr. REED):

S. 512. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

Mr. SANTORUM. I rise today to introduce with Senator ROCKEFELLER the bipartisan Fire Sprinkler Incentive Act of 2005. Passage of this Act would serve greatly to help reduce the tremendous annual economic and human losses that fire in the United States inflicts on the national economy and quality of life.

In the United States, fire departments responded to approximately 1.7 million fires in 2002. Annually, over 500,000 of these are structural fires causing approximately 3,400 deaths, around 100 of which are firefighters. Fire also caused some 18.5 million civilian injuries and $10.3 billion in direct property loss. The indirect cost of fire in the United States annually exceeds $80 billion. These losses are staggering. All of this translates to the fact that fire departments respond to a fire every 18 seconds. Every 60 seconds a fire breaks out in a structure, and in a residential structure every 80 seconds.

There are literally thousands of high-rise buildings built under older codes that lack adequate fire protection. Billions of dollars were spent to make these and other buildings handicapped accessible, but people with disabilities now occupying these buildings are not adequately protected from fire. At recent code hearings, representatives of the health care industry testified that there are approximately 4,200 nursing homes that need to be retrofitted with fire sprinklers. They further testified that the billion dollar cost of protecting these buildings with fire sprinklers would have to be raised through corresponding increases in Medicare and Medicaid. In addition to the alarming number of nursing homes lacking fire sprinkler protection, there are literally thousands of assisted living facilities housing older Americans and people with disabilities that lack fire sprinkler protection.

The solution resides in automatic sprinkler systems that are usually triggered within 4 minutes of ignition when the temperature rises above 120 degrees. The National Fire Protection Association (NFPA) has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building that has fully operational sprinklers. Furthermore, sprinklers are responsible for dramatically reducing property loss, from as low as 42 percent to as high as 70 percent depending on the structure.

Building owners do not argue with fire authorities over the logic of protecting their building with fire sprinklers. The issue is cost. This bill would drastically reduce the staggering annual economic toll of fire in America and thereby dramatically improve the quality of live for everyone involved. This legislation provides a tax incentive for businesses to install sprinklers through the use of a 5-year depreciation period, opposed to the current 27.5 or 39-year period for installations in residential rental and non-residential real property respectively. While only a start, the bill will help eliminate the massive losses seen in nursing homes, nightclubs, office buildings, apartment buildings, manufacturing facilities, and other for-profit entities.

This bill enjoys support from a variety of organizations. They include: the American Insurance Association, the American Fire Sprinkler Association, the California Department of Forestry and Fire Protection, Campus Firewatch, Congressional Fire Services Institute, Independent Insurance Agents & Brokers of America, International Association of Arson Investigators, International Association of Fire Chiefs, International Fire Service Training Association, National Fire Protection Association, National Fire Sprinkler Association, National Volunteer Fire Council, the Society of Fire Protection Engineers, and the Mechanical Contractors Asociation of America.

The Fire Sprinkler Incentive Act of 2005 provides long-needed safety incentives for building owners that will help fire departments across the country save lives. I ask my colleagues for their support of this important piece of legislation.

By Mr. GREGG (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mr. HARKIN, Mr. BINGAMAN, Mr. REED, Mrs. MURRAY, Mrs. LINCOLN, Mr. KERRY, and Mr. DURBIN):

S. 513. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, today I am pleased to be joined by Senators KENNEDY, MIKULSKI, HARKIN, BINGAMAN, REED, MURRAY, LINCOLN, KERRY and DURBIN in introducing the Public Safety Employer-Employee Cooperation Act of 2005. This legislation would extend to firefighters and police officers the right to discuss workplace issues with their employers.

With the enactment of the Congressional Accountability Act, State and local government employees remain the only sizable segment of workers left in America who do not have the basic right to enter into collective bargaining agreements with their employers. While most States do provide some collective bargaining rights for their public employees, others do not.

Studies have shown that communities which promote such cooperation enjoy much more effective and efficient delivery of emergency services. Such cooperation, however, is not possible in the States that do not provide public safety employees with the fundamental right to bargain with their employers.

The legislation I am introducing today is balanced in its recognition of the unique situation and obligation of public safety officers. The bill requires States, within 2 years, to guarantee the right of public safety officers to form and voluntarily join a union to bargain collectively over hours, wages and conditions of employment. The bill protects the right of public safety officers to form, join, or assist any labor organization or to refrain from any such activity, freely and without fear of penalty or reprisal. In addition, the legislation prohibits the use of strikes, lockouts, sickouts, work slowdowns or any other action that is designed to compel an employer, officer or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of services.

Under this legislation, States would continue to be able to enforce right-to-work laws which prohibit employers and labor organizations from negotiating labor agreements that require union membership or payment of union fees as a condition of employment. The legislation also preserves the right of

management to not bargain over issues traditionally reserved for management-level decisions. All States with a State bargaining law for public safety officers that grants rights equal to or greater than the rights provided under this bill would be exempt. The bill also gives States the option to exempt from coverage subdivisions with populations of less than 5,000 or fewer than 25 full time employees.

Labor-management partnerships, which are built upon bargaining relationships, result in improved public safety. Employer-employee cooperation contains the promise of saving the taxpayer money by enabling workers to offer input as to the most efficient way to provide services. In fact, studies have shown that States that give firefighters the right to discuss workplace issues actually have lower fire department budgets than States without those laws.

The Public Safety Employer-Employee Cooperation Act of 2005 will put firefighters and law enforcement officers on equal footing with other employees and provide them with the fundamental right to negotiate with employers over such basic issues as hours, wages, and workplace conditions.

I urge its adoption and ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 513

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Safety Employer-Employee Cooperation Act of 2005''.

SEC. 2. DECLARATION OF PURPOSE AND POLICY.

The Congress declares that the following is the policy of the United States:

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(3) The absence of adequate cooperation between public safety employers and employees has implications for the security of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

SEC. 3. DEFINITIONS.

In this Act:

(1) AUTHORITY.—The term ''Authority'' means the Federal Labor Relations Authority.

(2) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term ''emergency medical services personnel'' means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

(3) EMPLOYER; PUBLIC SAFETY AGENCY.—The terms ''employer'' and ''public safety agency'' mean any State, political subdivision of a State, the District of Columbia, or any territory or possession of the United States that employs public safety officers.

(4) FIREFIGHTER.—The term ''firefighter'' has the meaning given the term ''employee engaged in fire protection activities'' in section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)).

(5) LABOR ORGANIZATION.—The term ''labor organization'' means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment and related matters.

(6) LAW ENFORCEMENT OFFICER.—The term ''law enforcement officer'' has the meaning given such term in section 1204(5) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(5)).

(7) MANAGEMENT EMPLOYEE.—The term ''management employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires or authorizes the individual to formulate, determine, or influence the policies of the employer.

(8) PUBLIC SAFETY OFFICER.—The term ''public safety officer''—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory or management employee.

(9) SUBSTANTIALLY PROVIDES.—The term ''substantially provides'' means compliance with the essential requirements of this Act, specifically, the right to form and join a labor organization, the right to bargain over wages, hours, and conditions of employment, the right to sign an enforceable contract, and availability of some form of mechanism to break an impasse, such as arbitration, mediation, or fact finding.

(10) SUPERVISORY EMPLOYEE.—The term ''supervisory employee'' has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

(B) devotes a majority of time at work exercising such authority.

SEC. 4. DETERMINATION OF RIGHTS AND RESPONSIBILITIES.

(a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b). In making such determinations, the Authority shall consider and give weight, to the maximum extent practicable, to the opinion of affected parties.

(2) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Director shall issue a subsequent determination not later than 30 days after receipt of such request.

(3) JUDICIAL REVIEW.—Any State, political subdivision of a State, or person aggrieved by a determination of the Authority under this section may, during the 60 day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed, except that any final determination of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(b) RIGHTS AND RESPONSIBILITIES.—In making a determination described in subsection (a), the Authority shall consider whether State law provides rights and responsibilities comparable to or greater than the following:

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management and supervisory employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

(3) Permitting bargaining over hours, wages, and terms and conditions of employment.

(4) Requiring an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration or comparable procedures.

(5) Requiring enforcement through State courts of—

(A) all rights, responsibilities, and protections provided by State law and enumerated in this section; and

(B) any written contract or memorandum of understanding.

(c) FAILURE TO MEET REQUIREMENTS.—

(1) IN GENERAL.—If the Authority determines, acting pursuant to its authority under subsection (a), that a State does not

substantially provide for the rights and responsibilities described in subsection (b), such State shall be subject to the regulations and procedures described in section 5.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 2 years after the date of enactment of this Act.

SEC. 5. ROLE OF FEDERAL LABOR RELATIONS AUTHORITY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4(b) establishing collective bargaining procedures for public safety employers and officers in States which the Authority has determined, acting pursuant to its authority under section 4(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this Act and in accordance with regulations prescribed by the Authority, shall—

(1) determine the appropriateness of units for labor organization representation;

(2) supervise or conduct elections to determine whether a labor organization has been selected as an exclusive representative by a majority of the employees in an appropriate unit;

(3) resolve issues relating to the duty to bargain in good faith;

(4) conduct hearings and resolve complaints of unfair labor practices;

(5) resolve exceptions to the awards of arbitrators;

(6) protect the right of each employee to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and protect each employee in the exercise of such right; and

(7) take such other actions as are necessary and appropriate to effectively administer this Act, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code, except that any final order of the Authority with respect to questions of fact or law shall be found to be conclusive unless the court determines that the Authority's decision was arbitrary and capricious.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in a State court of competent jurisdiction to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

SEC. 6. STRIKES AND LOCKOUTS PROHIBITED.

A public safety employer, officer, or labor organization may not engage in a lockout, sickout, work slowdown, or strike or engage in any other action that is designed to compel an employer, officer, or labor organization to agree to the terms of a proposed contract and that will measurably disrupt the delivery of emergency services, except that it shall not be a violation of this section for an employer, officer, or labor organization to refuse to provide services not required by the terms and conditions of an existing contract.

SEC. 7. EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS.

A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

SEC. 8. CONSTRUCTION AND COMPLIANCE.

(a) CONSTRUCTION.—Nothing in this Act shall be construed—

(1) to invalidate or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State or jurisdiction that provides collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act;

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

(3) to invalidate any State law in effect on the date of enactment of this Act that substantially provides for the rights and responsibilities described in section 4(b) solely because such State law permits an employee to appear on his or her own behalf with respect to his or her employment relations with the public safety agency involved; or

(4) to permit parties subject to the National Labor Relations Act (29 U.S.C. 151 et seq.) and the regulations under such Act to negotiate provisions that would prohibit an employee from engaging in part-time employment or volunteer activities during off-duty hours; or

(5) to prohibit a State from exempting from coverage under this Act a political subdivision of the State that has a population of less than 5,000 or that employs less than 25 full time employees.

For purposes of paragraph (5), the term ''employee'' includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—No State shall preempt laws or ordinances of any of its political subdivisions if such laws provide collective bargaining rights for public safety officers that are equal to or greater than the rights provided under this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BYRD:

S. 514. A bill to complete construction of the 13-State Appalachian development highway system, and for other purposes; to the Committee on Environment and Public Works.

Mr. BYRD. Mr. President, today I am, again, introducing legislation designed to fulfill an important promise made by the Federal Government to the people of my State and my region some 40 years ago. That promise, building and completing a network of highways through the Appalachian region is known today as the Appalachian Development Highway System or ADHS. I look forward to working with my fellow Senators to have my legislation included in the reauthorization of the Federal-aid Highway Program, a program at the core of Federal infrastructure investment.

Over the course of the 108th Congress, we failed to reauthorize this program. That legislation should have been enacted into law prior to beginning fiscal year 2004. We are now more than one third of the way through fiscal year 2005 and the 109th Congress must initiate new bills to get the job done. I know I speak for many Senators in stressing the need to complete this job during this session of Congress. We must authorize a bill that addresses our deteriorating highways and bridges, and is not squeezed by the artificial funding ceiling that the administration wants.

The administration's own Conditions and Performance Report again reminds us that a great deal more investment in our infrastructure is essential to prevent the further deterioration of our nation's highways and bridges.

At a September 30, 2002 hearing of the Senate Environment and Public Works Committee, Administrator Mary Peters testified that, despite the historic funding increase accomplished through TEA–21, congestion on our roads continues to worsen. Funding for highway infrastructure by all levels of government will have to increase by more than 65 percent or $42.2 billion per year to actually improve the condition of our Nation's highways. A funding increase of more than 17 percent or $11.3 billion is necessary to simply maintain the current poor condition of our highway network, where more than one in four of our Nation's bridges are classified as deficient.

At the end of 2002, I worked doggedly to ensure that the Senate prevailed in the conference with the House on the omnibus appropriations bill for fiscal year 2003 and rejected every penny of the $8.6 billion cut in highway funding proposed by President Bush. In 2003, I was pleased to join with Senators BOND and REID, the respective chairman and ranking member of the Surface Transportation Subcommittee in sponsoring a bipartisan amendment to the budget resolution for fiscal year 2004 boosting funding for our Federal-aid Highway Program by several billion dollars. That amendment commanded 79 votes on the Senate floor.

Mr. President, I am one of only two members still serving in the Congress that had the privilege of casting a vote in favor of establishing the Interstate Highway System. I did so as a Member of the other body back in 1956. Of equal if not greater importance to the transportation needs of my region, however,

were the findings of the first Appalachian Regional Commission in 1964, that while the Interstate Highway System was slated to provide historic economic benefits to most of our Nation, the system would bypass the Appalachian region because of the extremely high costs of building highways through Appalachia's rugged topography.

In 1965, the Congress adopted the Appalachian Regional Development Act that promised a network of modern highways to connect the Appalachian region to the rest of the Nation's highway network and, even more importantly, the rest of the Nation's economy. Absent the Appalachian Development Highway System, my region of the country would have been left with a transportation network of dangerous, narrow, winding roads following the path of river valleys and stream beds between mountains.

One of the observations contained in Administrator Peters' testimony back in September of 2002 that especially caught my eye was her statement that ''the condition of higher-order roads, such as interstates, has improved considerably since 1993 while the condition on many lower-order roads has deteriorated.'' The pattern of road conditions mirrors the distribution of wealth in our country. The rich are getting richer while the poor get poorer. That observation becomes especially pertinent when one contemplates the challenge of completing the Appalachian Development Highway System.

We have virtually completed the construction of the Interstate Highway System and have moved on to other important transportation goals. However, the people of my region still wait for the Federal Government to make good on its 40-year-old promise to complete the ADHS. The system is still less than 80 percent complete. My home State of West Virginia is below the average for the entire Appalachian region with only 72 percent of its mileage complete and open to traffic.

Unfortunately, there are still children in Appalachia who lack decent transportation routes to school; and there are still pregnant mothers, elderly citizens and others who lack road access to area hospitals. There are thousands upon thousands of people who cannot obtain sustainable well-paying jobs because of poor roads. The entire status of the Appalachian Development Highway System is laid out in great detail in the Cost to Complete Report for 2002 completed by the Appalachian Regional Commission. This is the most comprehensive report on the status of the Appalachian Development Highway System to date, and I commend the staff of the Appalachian Regional Commission for their hard work on this report. The last report was completed in 1997 just prior to Congressional consideration of TEA–21.

The enactment of TEA–21 signaled a new day in the advancement of the Appalachian Development Highway System. Through the work of the Committee on Environment and Public Works, the House Transportation and Infrastructure Committee, and the administration, we took a great leap forward by authorizing direct contract authority from the Highway Trust Fund to the States for the construction of the ADHS. Up until that point, funding for the Appalachian Development Highway System was limited to uncertain general fund appropriations. By providing the States of the Appalachian region with a predictable source of funds to complete ADHS segments, TEA-21 reinvigorated efforts to keep the promise made to the people of the Appalachian region.

This initiative has been a great success. States are making progress toward the completion of the system. Since the last Cost to Complete Report, 183 miles of the system have been opened to traffic and, the cost to complete the system has been reduced by roughly $1.7 billion in Federal funds.

I am pleased to report that the 13 States, to date, have succeeded in obligating just under 90 percent of the obligation authority that has been granted to them for the completion of the system. A 90-percent obligation rate compares quite favorably to some of the other transportation programs through which the States were granted multiple years to obligate their funds.

According to the ARC's Cost to Complete Report, the remaining Federal funds needed to complete the ADHS as the system was defined at the time that report was completed are now estimated to be $4.467 billion. When adjusted for inflation over the life of the next highway bill, using the standard inflation calculation for highway projects, a total of $5.04 billion will need to be authorized to complete the system. That is a lot of money and I believe that figure deserves some explanation.

The considerable cost of completing the last 20 percent of the ADHS is explained by the fact that the easiest segments of the system to build have already been built. Much of the costs associated with completing the most difficult unfinished segments are driven by the requirement to comply with other Federal laws, especially the laws requiring environmental mitigation measures when building new highways through rural areas. While the $5.04 billion figure may seem large to some of my colleagues, I would remind them that the last highway bill authorized more than $218 billion in Federal infrastructure investment over 6 years. It is my sincere hope and expectation that the next highway bill will authorize an even greater amount.

Of critical importance to this debate is the fact that the unfinished segments of the ADHS represent some of most dangerous and most deficient roadways in our entire Nation. Often lost in our debate over the necessity to invest in our highways is the issue of safety. The Federal Highway Administration has published reports indicating that substandard road conditions are a factor in 30 percent of all fatal highway accidents. I am quite certain that the percentage is a great deal higher in the Applachian region.

The Federal Highway Administration found that upgrading two-lane roads to four-lane divided highways decreased fatal car accidents by 71 percent and that the widening of traffic lanes has served to reduce fatalities by 21 percent. These are precisely the kind of road improvements that are funded through the ADHS. In my state, the largest segment of unfinished Appalachian Highway, if completed, will replace the second most dangerous segment of roadway in West Virginia. So, even those who would question the wisdom of completing these highways in the name of economic development should take a hard look at the fact that the people of rural Appalachia are taking their lives in their hands every day as they drive on dangerous roads. It is time for this Congress, in concert with the administration, to take the last great leap forward and authorize sufficient contract authority to finally complete the Appalachian Development Highway System. If we enact another six-year highway bill with sufficient funds to complete the system, we will finally pay the full costs of the ADHS some 45 years after the system was first promised to the people of my region. The legislation I am introducing today, the ''Appalachian Development Highway System Completion Act,'' will provide sufficient contract authority to complete the system. Importantly, it will guarantee that the states of the Appalachian Region do not pay a penalty, either through the distribution of minimum allocation funds, or the distribution of obligation limitation, for receiving sufficient funds to complete the Appalachian system.

I am very pleased that this administration has taken on the goal of completing the ADHS. In her letter accompanying the Cost to Complete Report, Administrator Peters said ''the completion of the ADHS is an important part of the mission of the Federal Highway Administration. We consider the accessibility, mobility and economic stimulation provided by the ADHS to be entirely consistent with the goals of our agency.'' Ms. Peters further stated that the Appalachian Regional Commission's 2002 Cost to Complete Report, ''provides a sound basis for apportioning future funding to complete the system.'' I thank Mary Peters and the entire Federal Highway Administration for their leadership on this issue and I look forward to working with Ms. Peters and her agency to ensure that this commitment is borne out in the transportation reauthorization legislation that is developed by the Congress.

Completion of a new highway bill will be an enormous task for this Congress—one that is now more than 2

years overdue. As I look back over the many years of my public career, one of the accomplishments of which I am most proud was my amendment providing an additional $8 billion in funding to break the logjam during the debate on the Intermodal Surface Transportation Efficiency Act in 1991. Another was my sponsorship of the Byrd-Gramm-Baucus-Warner Amendment during the Senate debate of TEA–21 in 1998. That effort resulted in some $26 billion in funding being added to that bill and put us on a path to historic funding increases for our nation's highway infrastructure. I look forward again to working with my fellow Senators on completion of a bill that makes the necessary investments in our nation's highways, not just in the Appalachian region but across our entire country.

By Mr. BYRD:

S. 515. A bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes; to the Committee on Armed Services.

Mr. BYRD. Mr. President, in recent years, the public profile of the National Guard has changed considerably. Known mainly for the contributions of citizen-soldiers to their States and communities, today the men and women of the National Guard are serving on the front lines in Iraq and Afghanistan, enduring hardships in two of the world's most dangerous places.

In spite of the long deployments, far away from the small towns and big cities that these citizen-soldiers call home, the National Guard continues its work for our States and the American people. Today, I introduce legislation to support a most successful program that has helped the National Guard change the lives of tens of thousands of young Americans.

In 1991, I provided the first funding to establish a pilot program known as the National Guard Civilian Youth Opportunities Program. Over the years, this program has expanded in size and scope and is now known as the National Guard Youth Challenge Program.

The Youth Challenge Program gives high school dropouts the skills they need to turn their lives around. The advantage of using the National Guard to provide a structured environment for these students has been confirmed in studies by the Defense Science Board in 2000, the White House Task Force on Disadvantaged Children in 2003, and the Department of Defense in 2004.

The program now operates 27 academies in 24 States, including West Virginia, Alaska, Hawaii, Georgia, Louisiana, Virginia, Michigan, Florida, Texas, North Carolina, and South Carolina. Over 5,000 cadets are now in training, and more than 58,000 have graduated from the program since 1993. Fully three-quarters of the Youth Challenge graduates have earned their high school diplomas in the program, but the program is at the mercy of shrinking state budgets.

In March 2004, the Department of Defense recommended an increase in Federal support for the program in order to prevent any more closures of Youth Challenge academies. The bill I introduce today would write that recommendation into law, phasing in the additional Federal support over 3 years.

My legislation also proposes to increase the authorization for the Youth Challenge program by $16.3 million, including $6.3 million for the proposed increase in the Federal share of the Youth Challenge Program's cost for Fiscal Year 2006.

My bill authorizes an additional $10 million to provide the first significant per-student increase in funding since the program began. For more than 12 years, the funding of the Youth Challenge Program has remained constant at $14,000 per student, per year. Imagine that. Think of that. At a time when the cost of education is growing by leaps and bounds, the Youth Challenge program has held the line on its budget for more than 12 years.

But such discipline means that there have been cutbacks in teachers, uniforms, and activities. The additional $10 million authorized in my bill would end these cutbacks, and may also be used to open new Youth Challenge academies, giving more at-risk youth a chance to change their lives.

Many of the citizen-soldiers of the National Guard serve our country in distant lands, but their commitment to their communities continues. The legislation I introduce today will strengthen that commitment by expanding the National Guard Youth Challenge Program for disadvantaged youth.

By Mrs. HUTCHISON:

S. 517. A bill to establish a Weather Modification Operations and Research Board, and for other purposes; to the Committee on Commerce, Science, and Transportation.

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

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

S. 517

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 ''Weather Modification Research and Technology Transfer Authorization Act of 2005''.

SEC. 2. PURPOSE.

It is the purpose of this Act to develop and implement a comprehensive and coordinated national weather modification policy and a national cooperative Federal and State program of weather modification research and development.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Weather Modification Advisory and Research Board.

(2) EXECUTIVE DIRECTOR.—The term ''Executive Director'' means the Executive Director of the Weather Modification Advisory and Research Board.

(3) RESEARCH AND DEVELOPMENT.—The term ''research and development'' means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(4) WEATHER MODIFICATION.—The term ''weather modification'' means changing or controlling, or attempting to change or control, by artificial methods the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere.

SEC. 4. WEATHER MODIFICATION ADVISORY AND RESEARCH BOARD ESTABLISHED.

(a) IN GENERAL.—There is established in the Department of Commerce the Weather Modification Advisory and Research Board.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Board shall consist of 11 members appointed by the Secretary of Commerce, of whom—

(A) at least 1 shall be a representative of the American Meteorological Society;

(B) at least 1 shall be a representative of the American Society of Civil Engineers;

(C) at least 1 shall be a representative of the National Academy of Sciences;

(D) at least 1 shall be a representative of the National Center for Atmospheric Research of the National Science Foundation;

(E) at least 2 shall be representatives of the National Oceanic and Atmospheric Administration of the Department of Commerce;

(F) at least 1 shall be a representative of institutions of higher education or research institutes; and

(G) at least 1 shall be a representative of a State that is currently supporting operational weather modification projects.

(2) TENURE.—A member of the Board serves at the pleasure of the Secretary of Commerce.

(3) VACANCIES.—Any vacancy on the Board shall be filled in the same manner as the original appointment.

(b) ADVISORY COMMITTEES.—The Board may establish advisory committees to advise the Board and to make recommendations to the Board concerning legislation, policies, administration, research, and other matters.

(c) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

(d) MEETINGS.—The Board shall meet at the call of the Chair.

(e) QUORUM.—A majority of the members of the Board shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIR AND VICE CHAIR.—The Board shall select a Chair and Vice Chair from among its members.

SEC. 5. DUTIES OF THE BOARD.

(a) PROMOTION OF RESEARCH AND DEVELOPMENT.—In order to assist in expanding the theoretical and practical knowledge of weather modification, the Board shall promote and fund research and development, studies, and investigations with respect to—

(1) improved forecast and decision-making technologies for weather modification operations, including tailored computer workstations and software and new observation systems with remote sensors; and

(2) assessments and evaluations of the efficacy of weather modification, both purposeful (including cloud-seeding operations) and

inadvertent (including downwind effects and anthropogenic effects).

(b) FINANCIAL ASSISTANCE.—Unless the use of the money is restricted or subject to any limitations provided by law, the Board shall use amounts in the Weather Modification Research and Development Fund—

(1) to pay its expenses in the administration of this Act, and

(2) to provide for research and development with respect to weather modifications by grants to, or contracts or cooperative arrangements, with public or private agencies.

(c) REPORT.—The Board shall submit to the Secretary biennially a report on its findings and research results.

SEC. 6. POWERS OF THE BOARD.

(a) STUDIES, INVESTIGATIONS AND HEARINGS.—The Board may make any studies or investigations, obtain any information, and hold any hearings necessary or proper to administer or enforce this Act or any rules or orders issued under this Act.

(b) PERSONNEL.—The Board may employ, as provided for in appropriations Acts, an Executive Director and other support staff necessary to perform duties and functions under this Act.

(c) COOPERATION WITH OTHER AGENCIES.—The Board may cooperate with public or private agencies to promote the purposes of this Act.

(d) COOPERATIVE AGREEMENTS.—The Board may enter into cooperative agreements with the head of any department or agency of the United States, an appropriate official of any State or political subdivision of a State, or an appropriate official of any private or public agency or organization for conducting weather modification activities or cloud-seeding operations.

(e) CONDUCT AND CONTRACTS FOR RESEARCH AND DEVELOPMENT.—The Executive Director, with the approval of the Board, may conduct and may contract for research and development activities relating to the purposes of this section.

SEC. 7. COOPERATION WITH THE WEATHER MODIFICATION OPERATIONS AND RESEARCH BOARD.

The heads of the departments and agencies of the United States and the heads of any other public or private agencies and institutions that receive research funds from the United States shall, to the extent possible, give full support and cooperation to the Board and to initiate independent research and development programs that address weather modifications.

SEC. 8. FUNDING.

(a) IN GENERAL.—There is established within the Treasury of the United States the Weather Modification Research and Development Fund, which shall consist of amounts appropriated pursuant to subsection (b) or received by the Board under subsection (c).

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Board for the purposes of carrying out the provisions of this Act $10,000,000 for each of fiscal years 2005 through 2014. Any sums appropriated under this subsection shall remain available, without fiscal year limitation, until expended.

(c) GIFTS.—The Board may accept, use, and dispose of gifts or donations of services or property.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect on October 1, 2005.

By Mr. SESSIONS (for himself, Mr. DURBIN, Mr. KENNEDY, and Mr. DODD):

S. 518. A bill to provide for the establishment of a controlled substance monitoring program in each State; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator SESSIONS, Senator DURBIN and Senator DODD in introducing the ''National All Schedules Prescription Electronic Reporting Act.'' Our goal is to help States establish electronic databases to monitor the use of prescription drugs and deal more effectively with the growing national problem of prescription drug abuse.

Over 6 million Americans currently use prescription drugs for non-medical purposes. 31 million say they've abused such drugs at least once in their lifetime. Since 1992, the number of young adults who abuse prescription pain relievers and other addictive drugs has more than tripled. Prescription drug abuse among youths 12 to 17 has soared tenfold.

State programs to monitor addictive medications can help curb this abuse. Currently, 20 States have such programs in place, including Massachusetts, but they vary greatly in the collection and storage of the data, and in the methods for using the databases.

The information contained in these databases is important, because it can be used to identify physicians and patients who encourage the non-medical use of prescription drugs. It can also be used to reduce the diversion of prescription drugs for illegal use.

Our bill authorizes the Secretary of HHS to make grants to States to establish these needed monitoring programs. For States with existing programs, the grants can be used to improve their systems and standardize the data collected to allow easy sharing of the information between the States.

Any such program, however, must include strong safeguards for medical privacy, and make certain that the database cannot be used to put improper pressure on physicians to avoid prescribing essential drugs. The proper treatment of pain, for example, is an enormous medical challenge, but this essential care will be much more difficult if patients fear that their prescription histories will not be protected, or if physicians begin to look over their shoulder every time they prescribe pain medication.

We all share the goal of reaching the right balance between the interests of patients, physicians, and law enforcement, and we think this legislation does that. It requires that in grant applications, States must propose security standards for the electronic databases, including appropriate encryption or other information technology. States also must propose standards for using the database and obtaining the information, including certifications to be sure that requests for information are legitimate. The bill requires the Secretary to provide a follow-up analysis of the privacy protections within two years after enactment.

The national problem of prescription drug abuse worsens every year. Physicians want to treat pain without contributing to addiction. Law enforcement officials want to stop the flow of prescription drugs from pharmacies to the streets. A national prescription drug monitoring program will provide a valuable resource to achieve these goals. I commend Senator SESSIONS for his leadership on this important health issue, and I urge my colleagues to join us in this effort to fight prescription drug abuse.

By Mrs. HUTCHISON:

S. 519. A bill to amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects and activities under that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. Mr. President, I rise today to offer a bill that is vital for water conservation in my home State of Texas. This legislation would amend The Lower Rio Grande Valley Water Resources and Conservation Improvement Act of 2000, which was passed with Unanimous Consent in the 106th Congress, to authorize work needed to conserve and enhance water supplies in the Lower Rio Grande Valley. It would do so by improving the water infrastructure used by farmers, ranchers, municipalities and a growing population.

Improving water conveyance infrastructure is the top priority for enhancing water conservation in the Lower Rio Grande Valley. Currently, unprecedented growth coupled with Mexico's past failure to comply with the 1944 Water treaty, reinforces the dire need for water conservation. The Lower Rio Grande Valley depends upon an adequate supply of water. Studies show that water losses resulting from seepage, spills and evaporation exceed 68 billion gallons of water per year, underscoring the pressing demand for improvements which will ensure efficient conservation of water.

By enacting this legislation, 19 additional water districts will enhance their ability to conserve their resources. Residents in the Lower Rio Grande Valley will not be forced to rely on canal systems subject to seepage and evaporation. Improving irrigation systems and updating this 100–year-old water distribution system will provide citizens in South Texas with a sufficient supply of one of nature's most valuable resources. Rather than waiting for the unpredictability of Mother Nature to increase water resources through rainstorms, these communities can rely on more effective water systems.

I look forward to working with my colleagues to pass this measure to help the citizens of the Lower Rio Grande Valley better conserve their water resources. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 519

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 ''Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2005''.

SEC. 2. AUTHORIZATION OF ADDITIONAL PROJECTS AND ACTIVITIES UNDER THE LOWER RIO GRANDE WATER CONSERVATION AND IMPROVEMENT PROGRAM.

(a) ADDITIONAL PROJECTS.—Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended by adding at the end the following:

''(20) In Cameron County, Texas, Bayview Irrigation District No. 11, water conservation and improvement projects as identified in the March 3, 2004, engineering report by NRS Consulting Engineers at a cost of $1,425,219.

''(21) In the Cameron County, Texas, Brownsville Irrigation District, water conservation and improvement projects as identified in the February 11, 2004 engineering report by NRS Consulting Engineers at a cost of $722,100.

''(22) In the Cameron County, Texas Harlingen Irrigation District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $4,173,950.

''(23) In the Cameron County, Texas, Cameron County Irrigation District No. 2, water conservation and improvement projects as identified in the February 11, 2004 engineering report by NRS Consulting Engineers at a cost of $8,269,576.

''(24) In the Cameron County, Texas, Cameron County Irrigation District No. 6, water conservation and improvement projects as identified in an engineering report by Turner Collie Braden, Inc., at a cost of $5,607,300.

''(25) In the Cameron County, Texas, Adams Gardens Irrigation District No. 19, water conservation and improvement projects as identified in the March, 2004 engineering report by Axiom-Blair Engineering at a cost of $2,500,000.

''(26) In the Hidalgo and Cameron Counties, Texas, Hidalgo and Cameron Counties Irrigation District No. 9, water conservation and improvement projects as identified by the February 11 engineering report by NRS Consulting Engineers at a cost of $8,929,152.

''(27) In the Hidalgo and Willacy Counties, Texas, Delta Lake Irrigation District, water conservation and improvement projects as identified in the March, 2004 engineering report by Axiom-Blair Engineering at a cost of $8,000,000.

''(28) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 2, a water conservation and improvement project identified in the engineering reports attached to a letter dated February 11, 2004, from the district's general manager, at a cost of $5,312,475.

''(29) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 1, water conservation and improvement projects identified in an engineering report dated March 5, 2004 by Melden and Hunt, Inc. at a cost of $5,595,018.

''(30) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 6, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $3,450,000.

''(31) In the Hidalgo County, Texas Santa Cruz Irrigation District No. 15, water conservation and improvement projects as identified in an engineering report dated March 5, 2004 by Melden and Hunt at a cost of $4,609,000.

''(32) In the Hidalgo County, Texas, Engelman Irrigation District, water conservation and improvement projects as identified in an engineering report dated March 5, 2004 by Melden and Hunt, Inc. at a cost of $2,251,480.

''(33) In the Hidalgo County, Texas, Valley Acres Water District, water conservation and improvement projects as identified in an engineering report dated March, 2004 by Axiom-Blair Engineering at a cost of $500,000.

''(34) In the Hudspeth County, Texas, Hudspeth County Conservation and Reclamation District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $1,500,000.

''(35) In the El Paso County, Texas, El Paso County Water Improvement District No. 1, water conservation and improvement projects as identified in the March, 2004, engineering report by Axiom-Blair Engineering at a cost of $10,500,000.

''(36) In the Hidalgo County, Texas, Donna Irrigation District, water conservation and improvement projects identified in an engineering report dated March 22, 2004 by Melden and Hunt, Inc. at a cost of $2,500,000.

''(37) In the Hidalgo County, Texas, Hidalgo County Irrigation District No. 16, water conservation and improvement projects identified in an engineering report dated March 22, 2004 by Melden and Hunt, Inc. at a cost of $2,800,000.

''(38) The United Irrigation District of Hidalgo County water conservation and improvement projects identified in a March 2004 engineering report by Sigler Winston, Greenwood and Associates at a cost of $6,067,021.''.

(b) INCLUSION OF ACTIVITIES TO CONSERVE WATER OR IMPROVE SUPPLY; TRANSFERS AMONG PROJECTS.—Section 4 of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) is amended—

(1) by redesignating subsection (c) as subsection (e); and

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

''(c) INCLUSION OF ACTIVITIES TO CONSERVE WATER OR IMPROVE SUPPLY.—In addition to the activities identified in the engineering reports referred to in subsection (a), each project that the Secretary conducts or participates in under subsection (a) may include any of the following:

''(1) The replacement of irrigation canals and lateral canals with buried pipelines.

''(2) The impervious lining of irrigation canals and lateral canals.

''(3) Installation of water level, flow measurement, pump control, and telemetry systems.

''(4) The renovation and replacement of pumping plants.

''(5) Other activities that will result in the conservation of water or an improved supply of water.

''(d) TRANSFERS AMONG PROJECTS.—Of amounts made available for a project referred to in any of paragraphs (20) through (38) of subsection (a), the Secretary may transfer and use for another such project up to 10 percent.''.

SEC. 3. REAUTHORIZATION OF APPROPRIATIONS FOR LOWER RIO GRANDE CONSTRUCTION.

Section 4(e) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106–576; 114 Stat. 3067) (as redesignated by section 2(b)) is amended by inserting before the period the following: ''for projects referred to in paragraphs (1) through (19) of subsection (a), and $42,356,145 (2004 dollars) for projects referred to in paragraphs (20) through (38) of subsection (a)''.

By Mrs. HUTCHISON (for herself, Mr. KENNEDY, Mr. CORNYN, and Mr. SCHUMER):

S. 521. A bill to amend the Public Health Service Act to direct the Secretary of Health and Human Services to establish, promote, and support a comprehensive prevention, research, and medical management referral program for hepatitis C virus infection; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 521

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 ''Hepatitis C Epidemic Control and Prevention Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Approximately 5,000,000 Americans are infected with the hepatitis C virus (referred to in this section as ''HCV''), and more than 3,000,000 Americans are chronically infected, making HCV the Nation's most common chronic blood borne virus infection.

(2) Nearly 2 percent of the population of the United States have been infected with HCV.

(3) Conservative estimates indicate that approximately 30,000 Americans are newly infected with HCV each year, and that number has been growing since 2001.

(4) HCV infection, in the United States, is the most common cause of chronic liver disease, liver cirrhosis, and liver cancer, the most common indication for liver transplant, and the leading cause of death in people with HIV/AIDS. In addition, there may be links between HCV and certain other diseases, given that a high number of people infected with HCV also suffer from type 2 diabetes, lymphoma, thyroid and certain blood disorders, and autoimmune disease.

(5) The majority of individuals infected with HCV are unaware of their infection. Individuals infected with HCV serve as a source of transmission to others and, since few individuals are aware they are infected, they are unlikely to take precautions to prevent the spread or exacerbation of their infection.

(6) There is no vaccine available to prevent HCV infection.

(7) Treatments are available that can eradicate the disease in approximately 50 percent of those who are treated, and behavioral changes can slow the progression of the disease.

(8) Conservative estimates place the costs of direct medical expenses for HCV at more than $1,000,000,000 in the United States annually, and such costs will undoubtedly increase in the absence of expanded prevention and treatment efforts.

(9) To combat the HCV epidemic in the United States, the Centers for Disease Control and Prevention developed Recommendations for Prevention and Control of Hepatitis C Virus (HCV) Infection and HCV-Related Chronic Disease in 1998 and the National Hepatitis C Prevention Strategy in 2001, and the National Institutes of Health convened

Consensus Development Conferences on the Management of Hepatitis C in 1997 and 2002. These recommendations and guidelines provide a framework for HCV prevention, control, research, and medical management referral programs.

(10) The Department of Veterans Affairs (referred to in this paragraph as the ''VA''), which cares for more people infected with HCV than any other health care system, is the Nation's leader in HCV screening, testing, and treatment. Since 1998, it has been the VA's policy to screen for HCV risk factors all veterans receiving VA health care, and the VA currently recommends testing for all those who are found to be ''at risk'' for the virus and for all others who wish to be tested. In fiscal year 2004, over 98 percent of VA patients had been screened for HCV risk factors, and over 90 percent of those ''at risk'' were tested. For all veterans who test positive for HCV and enroll in VA medical care, the VA offers medications that can help HCV or its complications. The VA also has programs for HCV patient and provider education, clinical care, data-based quality improvement, and research, and it has 4 Hepatitis C Resource Centers to develop and disseminate innovative practices and tools to improve patient care. This comprehensive program should be commended and could potentially serve as a model for future HCV programs.

(11) Federal support is necessary to increase knowledge and awareness of HCV and to assist State and local prevention and control efforts.

SEC. 3. PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following:

''PART R—PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C

''SEC. 399AA. FEDERAL PLAN FOR THE PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

''(a) IN GENERAL.—The Secretary shall develop and implement a plan for the prevention, control, and medical management of the hepatitis C virus (referred to in this part as 'HCV') that includes strategies for education and training, surveillance and early detection, and research.

''(b) INPUT IN DEVELOPMENT OF PLAN.—In developing the plan under subsection (a), the Secretary shall—

''(1) be guided by existing recommendations of the Centers for Disease Control and Prevention and the National Institutes of Health; and

''(2) consult with—

''(A) the Director of the Centers for Disease Control and Prevention;

''(B) the Director of the National Institutes of Health;

''(C) the Administrator of the Health Resources and Services Administration;

''(D) the heads of other Federal agencies or offices providing services to individuals with HCV infections or the functions of which otherwise involve HCV;

''(E) medical advisory bodies that address issues related to HCV; and

''(F) the public, including—

''(i) individuals infected with the HCV; and

''(ii) advocates concerned with issues related to HCV.

''(c) BIENNIAL ASSESSMENT OF PLAN.—

''(1) IN GENERAL.—The Secretary shall conduct a biennial assessment of the plan developed under subsection (a) for the purpose of incorporating into such plan new knowledge or observations relating to HCV and chronic HCV (such as knowledge and observations that may be derived from clinical, laboratory, and epidemiological research and disease detection, prevention, and surveillance outcomes) and addressing gaps in the coverage or effectiveness of the plan.

''(2) PUBLICATION OF NOTICE OF ASSESSMENTS.—Not later than October 1 of the first even numbered year beginning after the date of enactment of the Hepatitis C Epidemic Control and Prevention Act, and October 1 of each even numbered year thereafter, the Secretary shall publish in the Federal Register a notice of the results of the assessments conducted under paragraph (1). Such notice shall include—

''(A) a description of any revisions to the plan developed under subsection (a) as a result of the assessment;

''(B) an explanation of the basis for any such revisions, including the ways in which such revisions can reasonably be expected to further promote the original goals and objectives of the plan; and

''(C) in the case of a determination by the Secretary that the plan does not need revision, an explanation of the basis for such determination.

''SEC. 399BB. ELEMENTS OF THE FEDERAL PLAN FOR THE PREVENTION, CONTROL, AND MEDICAL MANAGEMENT OF HEPATITIS C.

''(a) EDUCATION AND TRAINING.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall implement programs to increase awareness and enhance knowledge and understanding of HCV. Such programs shall include—

''(1) the conduct of health education, public awareness campaigns, and community outreach activities to promote public awareness and knowledge about risk factors, the transmission and prevention of infection with HCV, the value of screening for the early detection of HCV infection, and options available for the treatment of chronic HCV;

''(2) the training of healthcare professionals regarding the prevention, detection, and medical management of the hepatitis B virus (referred to in this part as 'HBV') and HCV, and the importance of vaccinating HCV-infected individuals and those at risk for HCV infection against the hepatitis A virus and HBV; and

''(3) the development and distribution of curricula (including information relating to the special needs of individuals infected with HBV or HCV, such as the importance of early intervention and treatment and the recognition of psychosocial needs) for individuals providing hepatitis counseling, as well as support for the implementation of such curricula by State and local public health agencies.

''(b) EARLY DETECTION AND SURVEILLANCE.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall support activities described in paragraph (2) to promote the early detection of HCV infection, identify risk factors for infection, and conduct surveillance of HCV infection trends.

''(2) ACTIVITIES.—

''(A) VOLUNTARY TESTING PROGRAMS.—

''(i) IN GENERAL.—The Secretary shall support and promote the development of State, local, and tribal voluntary HCV testing programs to aid in the early identification of infected individuals.

''(ii) CONFIDENTIALITY OF TEST RESULTS.—The results of a HCV test conducted by a testing program developed or supported under this subparagraph shall be considered protected health information (in a manner consistent with regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note)) and may not be used for any of the following:

''(I) Issues relating to health insurance.

''(II) To screen or determine suitability for employment.

''(III) To discharge a person from employment.

''(B) COUNSELING REGARDING VIRAL HEPATITIS.—The Secretary shall support State, local, and tribal programs in a wide variety of settings, including those providing primary and specialty healthcare services in nonprofit private and public sectors, to—

''(i) provide individuals with information about ongoing risk factors for HCV infection with client-centered education and counseling that concentrates on changing behaviors that place them at risk for infection; and

''(ii) provide individuals infected with HCV with education and counseling to reduce the risk of harm to themselves and transmission of the virus to others.

''(C) VACCINATION AGAINST VIRAL HEPATITIS.—With respect to individuals infected, or at risk for infection, with HCV, the Secretary shall provide for—

''(i) the vaccination of such individuals against hepatitis A virus, HBV, and other infectious diseases, as appropriate, for which such individuals may be at increased risk; and

''(ii) the counseling of such individuals regarding hepatitis A, HBV, and other viral hepatides.

''(D) MEDICAL REFERRAL.—The Secretary shall support—

''(i) referral of persons infected with or at risk for HCV, for drug or alcohol abuse treatment where appropriate; and

''(ii) referral of persons infected with HCV—

''(I) for medical evaluation to determine their stage of chronic HCV and suitability for antiviral treatment; and

''(II) for ongoing medical management of HCV.

''(3) HEPATITIS C COORDINATORS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, upon request, provide a Hepatitis C Coordinator to a State health department in order to enhance the management, networking, and technical expertise needed to ensure successful integration of HCV prevention and control activities into existing public health programs.

''(c) SURVEILLANCE AND EPIDEMIOLOGY.—

''(1) IN GENERAL.—The Secretary shall promote and support the establishment and maintenance of State HCV surveillance databases, in order to—

''(A) identify risk factors for HCV infection;

''(B) identify trends in the incidence of acute and chronic HCV;

''(C) identify trends in the prevalence of HCV infection among groups that may be disproportionately affected by HCV, including individuals living with HIV, military veterans, emergency first responders, racial or ethnic minorities, and individuals who engage in high risk behaviors, such as intravenous drug use; and

''(D) assess and improve HCV infection prevention programs.

''(2) SEROPREVALENCE STUDIES.—The Secretary shall conduct a population-based seroprevalence study to estimate the current and future impact of HCV. Such studies shall consider the economic and clinical impacts of HCV, as well as the impact of HCV on quality of life.

''(3) CONFIDENTIALITY.—Information contained in the databases under paragraph (1) or derived through studies under paragraph (2) shall be de-identified in a manner consistent with regulations under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(d) RESEARCH NETWORK.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health, shall—

''(1) conduct epidemiologic research to identify best practices for HCV prevention;

''(2) establish and support a Hepatitis C Clinical Research Network for the purpose of conducting research related to the treatment and medical management of HCV; and

''(3) conduct basic research to identify new approaches to prevention (such as vaccines) and treatment for HCV.

''(e) REFERRAL FOR MEDICAL MANAGEMENT OF CHRONIC HCV.—The Secretary shall support and promote State, local, and tribal programs to provide HCV-positive individuals with referral for medical evaluation and management, including currently recommended antiviral therapy when appropriate.

''(f) UNDERSERVED AND DISPROPORTIONATELY AFFECTED POPULATIONS.—In carrying out this section, the Secretary shall provide expanded support for individuals with limited access to health education, testing, and healthcare services and groups that may be disproportionately affected by HCV.

''(g) STUDY AND REPORT REGARDING VA PROGRAM AND FEDERAL PLAN.—

''(1) STUDY.—The Secretary shall conduct a study to examine the comprehensive HCV programs that have been implemented by the Department of Veterans Affairs (referred to in this subsection as the 'VA'), including the Hepatitis C Resource Center program, to determine whether any of these programs, or components of these programs, should be part of the Federal plan to combat HCV.

''(2) REPORT.—Not later than 12 months after date of enactment of the Hepatitis C Epidemic Control and Prevention Act, the Secretary shall submit to Congress a report that describes the results of the study required under paragraph (1).

''(3) CONSIDERATION OF REPORT.—The Secretary shall take into consideration the content of the report required under paragraph (2) in conducting the biennial assessment required under section 399AA(c).

''(h) EVALUATION OF PROGRAM.—The Secretary shall develop benchmarks for evaluating the effectiveness of the programs and activities conducted under this section and make determinations as to whether such benchmarks have been achieved.

''SEC. 399CC. GRANTS.

''(a) IN GENERAL.—The Secretary may award grants to, or enter into contracts or cooperative agreements with, States, political subdivisions of States, Indian tribes, or nonprofit entities that have special expertise relating to HCV, to carry out activities under this part.

''(b) APPLICATION.—To be eligible for a grant, contract, or cooperative agreement under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''SEC. 399DD. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $90,000,000 for fiscal year 2006, and such sums as may be necessary for each of fiscal years 2007 through 2010.''.

SEC. 4. LIVER DISEASE RESEARCH ADVISORY BOARD.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following:

''SEC. 409J. LIVER DISEASE RESEARCH ADVISORY BOARD.

''(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Hepatitis C Epidemic Control and Prevention Act, the Director of the National Institutes of Health shall establish a board to be known as the Liver Disease Research Advisory Board (referred to in this section as the 'Advisory Board').

''(b) DUTIES.—The Advisory Board shall advise and assist the Director of the National Institutes of Health concerning matters relating to liver disease research, including by developing and revising the Liver Disease Research Action Plan.

''(c) VOTING MEMBERS.—The Advisory Board shall be composed of 18 voting members to be appointed by the Director of the National Institutes of Health, in consultation with the Director of the National Institute of Diabetes and Digestive and Kidney Diseases (referred to in this subsection as the 'NIDDK'), of whom 12 such individuals shall be eminent scientists and 6 such individuals shall be lay persons. The Director of the National Institutes of Health, in consultation with the Director of the NIDDK, shall select 1 of the members to serve as the Chair of the Advisory Board.

''(d) EX OFFICIO MEMBERS.—The Director of the National Institutes of Health shall appoint each director of a national research institute that funds liver disease research to serve as a nonvoting, ex officio member of the Advisory Board. The Director of the National Institutes of Health shall invite 1 representative of the Centers for Disease Control and Prevention, 1 representative of the Food and Drug Administration, and 1 representative of the Department of Veterans Affairs to serve as such a member. Each ex officio member of the Advisory Board may appoint an individual to serve as that member's representative on the Advisory Board.

''(e) LIVER DISEASE RESEARCH ACTION PLAN.—

''(1) DEVELOPMENT.—Not later than 15 months after the date of enactment of the Hepatitis C Epidemic Control and Prevention Act, the Advisory Board shall develop (with appropriate support from the Director) a comprehensive plan for the conduct and support of liver disease research to be known as the Liver Disease Research Action Plan. The Advisory Board shall submit the Plan to the Director of National Institutes of Health and the head of each institute or center within the National Institutes of Health that funds liver disease research.

''(2) CONTENT.—The Liver Disease Research Action Plan shall identify scientific opportunities and priorities for liver disease research necessary to increase understanding of and to prevent, cure, and develop better treatment protocols for liver diseases.

''(3) REVISION.—The Advisory Board shall revise every 2 years the Liver Disease Research Action Plan, but shall meet annually to review progress and to amend the Plan as may be appropriate because of new scientific discoveries.''.

Mr. KENNEDY. Mr. President, it is a privilege to join Senators HUTCHINSON, SCHUMER, and CORNYN in introducing the Hepatitis C Epidemic Control and Prevention Act. Our goal is to provide for the prevention, control, and treatment of Hepatitis C viral infection through education, surveillance, early detection, and research.

Hepatitis C is the most common, chronic, blood-borne infection in the United States. An estimated 5 million Americans are now infected with the Hepatitis C virus, and 30,000 more are infected every year. The rate of infection continues to rise—between 1990 and 2015, the Centers for Disease Control and Prevention project a 4-fold increase in the number of persons with chronic infection of the virus.

Persons infected with the Hepatitis C virus come from all walks of life, but those at greatest risk include health workers, emergency service personnel, and drug users. Tragically, the majority of infected individuals are unaware of their infection, are not receiving treatment, and are sources of transmission of the virus to others.

Infection with the Hepatitis C virus has serious health effects. It can cause liver disease, including cirrhosis and liver cancer, and is the leading indicator for liver transplants. The illnesses are often life-threatening—up to 10,000 Americans die yearly from Hepatitis C complications, and it is the 7th leading cause of death for men between the ages of 25 and 64. In addition to the human costs, the disease has massive financial implications. Direct costs associated with care are expected to exceed $1 billion a year by 2010. Without intervention, the epidemic is projected to result in costs of over $54 billion by the year 2019.

Greater Federal investment will have a critical role in reversing this silent epidemic. Our Hepatitis C bill will increase public awareness of the dangers of Hepatitis C, and make testing widely available. For those already infected, it will provide counseling, referrals, and vaccination against Hepatitis A and B and other infectious diseases. It will also support research to develop a vaccine against Hepatitis C, just as we now have for Hepatitis A and B. It will create a multiagency Liver Disease Research Advisory Board and mandate a study of programs used by the Veteran's Administration, in order to provide important lessons and models of care for the nation. The Centers for Disease Control and Prevention will increase surveillance activities, and provide Hepatitis C coordinators to provide technical assistance and training to state public health agencies.

This bill will have a major impact on the lives of millions of Americans who are infected by Hepatitis C, and the families and loved ones who care for them. I look forward to working closely with my colleagues to act quickly to pass this needed legislation. I especially commend the impressive work of the students at Robinson Secondary School in Fairfax, VA, for their continuing dedication to informing Members of Congress about this important issue and bringing national attention to it.

By Mr. SALAZAR:

S. 523. A bill to amend title 10, United States Code, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes; to the Committee on Armed Services.

Mr. SALAZAR. Mr. President, I rise to introduce a simple piece of legislation. The idea underlying this bill is

simple: words matter. How we characterize what we do sends a message, and nowhere is that more clear than in the question of survivor benefits for survivors of military fatalities.

The Senate this year is considering major increases in survivor benefits for military families. That is as it should be, and I am proud to support two specific proposals to increase that assistance.

We have an historic opportunity to raise both the direct DoD assistance and the life insurance payouts to families from $12,420 to $100,000 and to provide an extra $150,000 in life insurance payouts.

We also have an opportunity to allow full concurrent receipt of the DoD's Survivor Benefit Plan and the VA's Dependency & Indemnity Compensation.

We also have the opportunity to improve the help that military survivors get in navigating the bureaucracies of the VA and the DoD to get the benefits they deserve.

And finally we have the opportunity to protect military families from predatory life insurance companies. All of these reforms are needed, and all are within our reach this year.

As I studied this issue, I was struck by the term ''Death Gratuity.'' That is the name for the assistance that taxpayers make available to military survivors. The term gratuity means gift.

I believe that not one of the widows, widowers, or children left behind think of that money as a gift. These families and these heroes are the ones who have given the gift to us. They are the ones who have given the ultimate sacrifice.

I know that the name of the assistance is not as important as the assistance itself, but I am sure that hearing the term ''gratuity'' is a bitter pill for survivors who have just received the worst news of their lives.

I for one refuse the term ''Death Gratuity,'' and I am introducing legislation today to change it to ''Fallen Hero Compensation.''

This is a simple change, but it more properly reflects the sacrifices military survivors have made and more properly expresses the gratitude and dignity we owe these families.

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

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

S. 523

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

SECTION 1. RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES AS FALLEN HERO COMPENSATION.

(a) IN GENERAL.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking ''have a death gratuity paid'' and inserting ''have fallen hero compensation paid''.

(2) In section 1476(a)—

(A) in paragraph (1), by striking ''a death gratuity'' and inserting ''fallen hero compensation''; and

(B) in paragraph (2), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(3) In section 1477(a), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(4) In section 1478(a), by striking ''The death gratuity'' and inserting ''The amount of fallen hero compensation''.

(5) In section 1479(1), by striking ''the death gratuity'' and inserting ''fallen hero compensation''.

(6) In section 1489—

(A) in subsection (a), by striking ''a gratuity'' in the matter preceding paragraph (1) and inserting ''fallen hero compensation''; and

(B) in subsection (b)(2), by inserting ''or other assistance'' after ''lesser death gratuity''.

(b) CLERICAL AMENDMENTS.—(1) Such subchapter is further amended by striking ''**Death gratuity:**'' each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting ''**Fallen hero compensation:**''.

(2) The table of sections at the beginning of such subchapter is amended by striking ''Death gratuity:'' in the items relating to sections 1474 through 1480 and 1489 and inserting ''Fallen hero compensation:''.

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

By Mrs. FEINSTEIN (for herself and Mr. SESSIONS):

S. 524. A bill to strengthen the consequences of the fraudulent use of United States or foreign passports and other immigration documents; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, Senator SESSIONS and I are introducing legislation to combat the use of fraudulent immigration documents, particularly passports and other travel documents.

The need to prevent and prosecute passport and travel document fraud is clear, and this bill would increase penalties for the use of fraudulent travel documents.

We know that the threat of terrorism against the United States is real and as the 9/11 Commission Report states, ''for terrorists, travel documents are as important as weapons.'' In order to minimize the threat of terrorism to the United States, we must make every effort to limit the use of fraudulent immigration documents.

The bill Senator SESSIONS and I are introducing would make the use of fraudulent travel documents—such as passports, Border Crossing Cards, Canadian driver's licenses or identification cards, transportation letters for parolees, military identification cards or green cards—an aggravated felony which will mandate detention and increase the likelihood of prosecution.

Today, this is not the case. Instead, fraudulent documents are routinely returned to the offender and individuals are allowed to return home without suffering any consequences from their attempts to circumvent our immigration laws.

Why is this a problem?

Firstly, admission to the United States is a privilege and not a right. We should not tolerate fraud and deception at our ports of entry, particularly because it should be apparent that a terrorist organization as sophisticated as Al Qaeda is well aware of our current procedures and can be expected to take full advantage of them.

Secondly, the 9/11 Commission found that as many as 15 of the 19 hijackers on September 11, 2001 could have been intercepted by border officials, based in part on their travel documents. In fact, all but one of the September 11 hijackers acquired some form of U.S. identification document and some of those documents were acquired by fraud. All of the hijackers opened bank accounts in their names and used passports and other identification documents that appeared valid on their face.

Even before September 11, 2001, the use of fraudulent immigration documents to enter the United States was a threat that we did not sufficiently heed.

Let me give you some known examples of terrorists who have entered, or attempted to enter the United States, with fraudulent travel documents: Ahmed Ajaj and Ramzi Yousef attempted to enter the United States with fraudulent passports. Both were later implicated or convicted in the first World Trade Center bombing in February of 1993.

Ahmed Ressam used a fraudulently obtained Canadian passport, and, in 1999 attempted to cross the border from Canada at Port Angeles in Washington State. A border inspector felt Mr. Ressam looked nervous, and a search of his car turned up a trunk full of bombs. There is some debate about the exact target(s) of the attack; however, it seems likely that Los Angeles International Airport and perhaps the millennium celebrations in Seattle were the intended targets.

It is no secret that: as the 9/11 Commission Report makes clear, Al Qaeda has established a complex international travel network that allowed, and presumably still allows, its operatives to legally travel worldwide to train, conduct reconnaissance or otherwise prepare for an attack. This network included, and presumably still includes, the use of altered and counterfeit passports and visas.

Many countries, including France, Portugal and Saudi Arabia, have reported tens of thousands of passports and travel documents stolen. When these are stolen in large numbers, they are sold on the black market to others.

The 9/11 Commission found that had the immigration system set a higher bar for determining whether individuals are who they claim to be—and ensured consequences for any violations—it could potentially have denied entry, deported or come into further contact with the terrorists that were involved in the September 11, 2001 attack on the United States.

Last year, the Department of Homeland Security Office of the Inspector General issued the following reports on lost and stolen passports: ''A Review of the Use of Stolen passports from Visa Waiver Countries to Enter the United States'', December 2004; and, ''An Evaluation of the Security Implications of the Visa Waiver Program'' (April 2004).

I encourage my colleagues to read these reports on the vulnerabilities in our current border security. To summarize, the reports state that: In the United States alone, immigration officials have records for 1.2 million stolen passports.

Aliens applying for admission into the United States using stolen passports have little reason to fear being caught and are usually admitted. It has been standard practice to simply return a fraudulent passport to an individual seeking entry and let them return to their country. This, in effect, is the soft underbelly of the entire passport system.

The Director of the U.S. National Central Bureau of INTERPOL said that for 55 of the 181 INTERPOL countries, there probably were over 10 million lost and stolen passports that might be in circulation.

Law enforcement officials state that lost and stolen passports are the greatest security problem associated with the Visa Waiver Program.

And now that I've mentioned the Visa Waiver Program, let me say a few things about this program.

I believe the Visa Waiver Program is the Achilles heel in our immigration system. This program allows roughly 13 million individuals to enter the United States each year from 27 countries, without a visa—meaning they enter without a thorough background and security check.

Since we do not have in place a fully operational entry and exit program, specifically an exit system, we have no real way of knowing if millions of travelers who entered the United States have left as required.

Last year, Congress extended the deadline for one year for countries participating in the Visa Waiver Program to include biometric indicators in passports to verify the identity of bearers at the request of the Administration.

It is likely this deadline will again need to be extended.

I believe that granting another extension will be another opportunity for terrorists, organized crime rings, petty crooks, counterfeiters and forgers to continue entering the United States virtually unnoticed because we won't be able to confirm that they are who they say they are.

The bottom line is that we must crack down on document fraud if we are to protect our borders. There are thousands, even millions, of lost, stolen and fraudulent international passports, travel documents, driver's licenses and other identity documents in circulation, and we must now allow those to compromise our homeland security.

The purpose of this bill is twofold: first, to give the Department of Justice the incentive to vigorously prosecute all cases involving passport and travel document fraud, as well as certain other egregious cases of immigration document fraud.

Second, by encouraging policies that make these cases a priority for prosecution, it will require that Department of Homeland Security officials not return fraudulent documents to travelers, but instead turn them over to the Department of Justice so that they can institute criminal proceedings.

Unfortunately, the prosecution of immigration document fraud is not a high priority for the Department of Justice, because, although current penalties allow for a sentence of up to 25 years, typically most alien's convicted of travel document fraud serve less than one year in prison.

Also, the immigration consequences of document fraud are relatively minor. Low sentences, coupled with minimal immigration consequences, do not provide much incentive for U.S. Attorneys nationwide to consider the prosecution of immigration document cases a priority nor can they be seen as anything but a slap on the wrists of the offenders.

Senator SESSIONS and I pose a solution to this problem by toughening penalties so that we instill in those seeking to use fraudulent travel and immigration documents a real sense of fear that they will be caught and prosecuted to the fullest extent possible under our laws.

In any kind of meaningful border protection plan, one must have a good sense of who is entering and exiting the country. That simply cannot be known if the individual is using a fraudulent document.

Mr. President, I ask my colleagues to join me in supporting this legislation.

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

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

S. 524

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

SECTION 1. FRAUDULENT USE OF PASSPORTS.

(a) CRIMINAL CODE.—

(1) SECRETARY OF HOMELAND SECURITY.—Section 1546 of title 18, United States Code, is amended by striking ''the Commissioner of the Immigration and Naturalization Service'' each place it appears and inserting ''the Secretary of Homeland Security''.

(2) DEFINITION OF PASSPORT.—Chapter 75 of title 18, United States Code, is amended by adding at the end the following:

''§ 1548. Definition

''In sections 1543 and 1544, the term 'passport' means any passport issued by the United States or any foreign country.''.

(3) CLERICAL AMENDMENT.—The table of sections for chapter 75 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 1548. Definition.''.

(b) IMMIGRATION AND NATIONALITY ACT.—Section 101(a)(43)(P) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(P)) is amended to read as follows:

''(P) except for a first offense for which an alien affirmatively shows was committed solely for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent to violate a provision of this Act—

''(i) an offense described in section 1542, 1543, or 1544 of title 18, United States Code (relating to false statements in the application, forgery, or misuse of a passport);

''(ii) an offense described in section 1546(a) of title 18, United States Code, relating to document fraud used as evidence of authorized stay or employment in the United States for which the term of imprisonment is at least 12 months; or

''(iii) any other offense described in section 1546(a) of title 18, United States Code, relating to entry into the United States, regardless of the term of imprisonment imposed.''.

SEC. 2. RELEASE AND DETENTION PRIOR TO DISPOSITION.

Section 3142(f)(1) of title 18, United States Code, is amended—

(1) in subparagraph (C), by striking ''or'' after the semicolon; and

(2) by adding at the end the following:

''(E) an offense under section 1542, 1543, 1544, or 1546(a) of this title; or''.

By Mr. ALEXANDER (for himself, Mr. DODD, Mr. ENZI, Mr. KENNEDY, Mr. HATCH, and Mr. ROBERTS):

S. 525. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ALEXANDER. Mr. President, today I am here with Senator DODD and on behalf of Senator ENZI and Senator KENNEDY to introduce the Caring for Children Act of 2005 which reauthorizes the Child Care and Development Block Grant, CCDBG, program. This program provides funding to States for child care vouchers.

Across the United States last year low-income parents of 2.3 million children were able to use these certificates or ''vouchers'' to help pay the cost of child care while the parents worked or continued their education so they could get a better job.

Last year, my home State of Tennessee spent $251,760,528 for child care, much of which came through the CCDBG program. This important program legislates how States are to administer child care. States provide certificates to parents to choose the type of care that best fits their children's needs.

In Tennessee, 1 percent of children receive care in their own home, 19 percent have chosen to place their children in family home care, 5 percent are in group care while the vast majority, 75 percent, are in child care centers. About 24,500 Tennessee families with children are enrolled in some form of subsidized child care, and as of January of this year, 46,591 children were receiving subsidized child care in my home State.

A family of four, which is a typical size for eligible families in Tennessee, is eligible for child care support when their median income is no more than 60 percent of the State's median income. That means that families making $33,000 or less are eligible for some assistance, though they may also have to make a co-payment. For example, a family of four making $32,000 would be required to pay $56 per week for the first child and $42 per week for the second child.

This year we are making the CCDBG program even better with four key improvements.

First, the act increases the quality set-aside from 4 percent, current law, to 6 percent. Eighty percent of parents report that their child care is poor to mediocre, so we need to take steps to improve overall quality of care. The quality set-aside is used to offer training and professional development to child care workers. States can also use quality funds to provide technical assistance to child care facilities to help them enhance learning opportunities for pre-school or school-aged children while in care. Of course, States could choose to do even more, and I am happy to report that my own State of Tennessee spends at least 12 percent on quality improvements.

Second, the act requires States to use at least 70 percent of funds for direct services. This will ensure that more of the money gets into the hands of parents rather than State bureaucracies. Under current law, States vary greatly in what percentage they use for direct services since current language simply specifies that a ''significant'' portion be used for services.

Third, the legislation emphasizes the importance of school preparedness by adding a new goal: development of prereading, prenumeracy, math and language skills for children in care. Research has proven that a child's brain doubles in size between birth and age 3. These are formative years for both physical and cognitive development.

Fourth, the bill establishes a temporary small business competitive grant program to encourage small businesses to work together to provide child care services for employees. Senator ROBERTS developed this innovative $30 million grant program, and I am glad it could be included in the bill.

The CCDBG program is important for supporting parents raising children across the country. One such parent is Tameka Payton. Tameka was nineth grade when she had her first child, Javonta. When she became pregnant, Tameka was a ward of the State. She had grown up with an abusive mother who was addicted to drugs. After being removed from the care of her mother, she was placed in the care of her aunt who also proved abusive. Tameka ran away, and was placed in the foster care system until she was 18. She then had two more children, Jayla and Michael, before finding a family resource center at the Salvation Army that connected her and her children to Tennessee's Family First program.

The Family First program and the child care certificates she receives through this program enabled Tameka to find work and become a better mother. She is currently working 40 hours a week while working on her GED. She is about to take the test. Everyday she brings her children 4, 2, and 1 to the McNeilly Center. Tameka feels confident that not only are her children receiving quality care but also she is learning how to be a better mother. Her children's teachers are receptive and answer all of her questions. She has learned to spend time reading to her children so she can contribute to their education, too.

The Federal CCDBG program funds the child care certificates Tameka receives. Without them, Tameka, and her children, would be in a very different place today.

Tameka's dream is to get her GED and attend Tennessee State University. The support she receives has given her the chance to realize that dream, and make a better life for herself and her children. I expect her hard work to payoff.

Another Tennessee parent who has benefited from the program is Renee Prigmore. Renee is currently a toddler teacher at the McNeilly Center in Nashville. But she first found McNeilly as a parent, not as a teacher. As a single parent of three, she used her child care certificates at McNeilly to leave her kids in quality care while she attended community college.

Renee has attained her degree as a Child Development Associate, CDA. Her children are now 10, 6, and 4 and she is exiting out of the child care program because she is able to provide for her three kids. The child care certificates she received enabled her to take the time to receive that degree and provide for her family.

People like Tameka Payton and Renee Prigmore have used the CCDBG program to build a new and better life for their families. With the introduction of the Caring for Children Act, we can make that program even stronger, so that parents raising children are able to build a better future for their families. I ask my colleagues to join with me in this important endeavor.

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

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

S. 525

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 ''Caring for Children Act of 2005''.

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

TITLE I—CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990

SEC. 101. SHORT TITLE AND GOALS.

(a) HEADING.—Section 658A of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 note) is amended by striking the section heading and inserting the following:

''SEC. 658A. SHORT TITLE AND GOALS.''.

(b) GOALS.—Section 658A(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9801 note) is amended—

(1) in paragraph (3), by striking ''encourage'' and inserting ''assist'';

(2) in paragraph (4), by striking ''parents'' and all that follows and inserting ''low-income working parents;'';

(3) by redesignating paragraph (5) as paragraph (8); and

(4) by inserting after paragraph (4) the following:

''(5) to assist States in improving the quality of child care available to families;

''(6) to promote school preparedness by encouraging children, families, and caregivers to engage in developmentally appropriate and age-appropriate activities in child care settings that will—

''(A) improve the children's social, emotional, and behavioral skills; and

''(B) foster their early cognitive, pre-reading, and language development, and prenumeracy and mathematics skills;

''(7) to promote parental and family involvement in the education of young children in child care settings; and''.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended by striking ''subchapter'' and all that follows and inserting ''subchapter $2,300,000,000 for fiscal year 2006, $2,500,000,000 for fiscal year 2007, $2,700,000,000 for fiscal year 2008, $2,900,000,000 for fiscal year 2009, and $3,100,000,000 for fiscal year 2010.''.

SEC. 103. LEAD AGENCY.

Section 658D(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858b(a)) is amended by striking ''designate'' and all that follows and inserting ''designate an agency (which may be an appropriate collaborative agency), or establish a joint interagency office, that complies with the requirements of subsection (b) to serve as the lead agency for the State under this subchapter.''.

SEC. 104. STATE PLAN.

(a) LEAD AGENCY.—Section 658E(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(1)) is amended

by striking ''designated'' and inserting ''designated or established''.

(b) POLICIES AND PROCEDURES.—Section 658E(c)(2) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(2)) is amended—

(1) in subparagraph (A)(i)(II), by striking ''section 658P(2)'' and inserting ''section 658T(2)'';

(2) by striking subparagraph (D) and inserting the following:

''(D) CONSUMER AND CHILD CARE PROVIDER EDUCATION INFORMATION.—Certify that the State will—

''(i) collect and disseminate, through resource and referral services and other means as determined by the State, to parents of eligible children, child care providers, and the general public, information regarding—

''(I) the promotion of informed child care choices, including information about the quality and availability of child care services;

''(II) research and best practices concerning children's development, including early cognitive development;

''(III) the availability of assistance to obtain child care services; and

''(IV) other programs for which families that receive child care services for which financial assistance is provided under this subchapter may be eligible, including the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766), and the medicaid and State children's health insurance programs under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.); and

''(ii) report to the Secretary the manner in which the consumer education information described in clause (i) was provided to parents and the number of parents to whom such consumer education information was provided, during the period of the previous State plan.'';

(3) by striking subparagraph (E) and inserting the following:

''(E) COMPLIANCE WITH STATE AND TRIBAL LICENSING REQUIREMENTS.—

''(i) IN GENERAL.—Certify that the State (or the Indian tribe or tribal organization) involved has in effect licensing requirements applicable to child care services provided within the State (or area served by the tribe or organization), and provide a detailed description of such requirements and of how such requirements are effectively enforced.

''(ii) CONSTRUCTION.—Nothing in clause (i) shall be construed to require that licensing requirements be applied to specific types of providers of child care services.'';

(4) in subparagraph (F)—

(A) in the first sentence, by striking ''within the State, under State or local law,'' and inserting ''within the State (or area served by the Indian tribe or tribal organization), under State or local law (or tribal law),''; and

(B) in the second sentence, by striking ''State or local law'' and inserting ''State or local law (or tribal law)''; and

(5) by adding at the end the following:

''(I) PROTECTION FOR WORKING PARENTS.—

''(i) REDETERMINATION PROCESS.—Describe the procedures and policies that are in place to ensure that working parents (especially parents in families receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) are not required to unduly disrupt their employment in order to comply with the State's requirements for redetermination of eligibility for assistance under this subchapter.

''(ii) MINIMUM PERIOD.—Demonstrate that each child that receives assistance under this subchapter in the State will receive such assistance for not less than 6 months before the State redetermines the eligibility of the child under this subchapter, except as provided in clause (iii).

''(iii) PERIOD BEFORE TERMINATION.—At the option of the State, demonstrate that the State will not terminate assistance under this subchapter based on a parent's loss of work or cessation of attendance at a job training or educational program for which the family was receiving the assistance, without continuing the assistance for a reasonable period of time, of not less than 1 month, after such loss or cessation in order for the parent to engage in a job search and resume work, or resume attendance of a job training or educational program, as soon as possible.

''(J) COORDINATION WITH OTHER PROGRAMS.—Describe how the State, in order to expand accessibility and continuity of quality early care and early education, will coordinate the early childhood education activities assisted under this subchapter with—

''(i) programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.), including the Early Head Start programs carried out under section 645A of that Act (42 U.S.C. 9840a);

''(ii)(I) Early Reading First and Even Start programs carried out under subparts 2 and 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6371 et seq., 6381 et seq.);

''(II) other preschool programs carried out under title I of that Act (20 U.S.C. 6301 et seq.); and

''(III) the Ready-to-Learn Television program carried out under subpart 3 of part D of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6775 et seq.);

''(iii) programs carried out under section 619 and part C of the Individuals with Disabilities Education Act;

''(iv) State prekindergarten programs; and

''(v) other early childhood education programs.

''(K) TRAINING IN EARLY LEARNING AND CHILDHOOD DEVELOPMENT.—Describe any training requirements that are in effect within the State that are designed to enable child care providers to promote the social, emotional, physical, and cognitive development of children and that are applicable to child care providers that provide services for which assistance is made available under this subchapter in the State.

''(L) PUBLIC-PRIVATE PARTNERSHIPS.—Demonstrate how the State is encouraging partnerships among State agencies, other public agencies, and private entities, to leverage existing service delivery systems (as of the date of submission of the State plan) for early childhood education and to increase the supply and quality of child care services for children who are less than 13 years of age.

''(M) ACCESS TO CARE FOR CERTAIN POPULATIONS.—Demonstrate how the State is addressing the child care needs of parents eligible for child care services for which assistance is provided under this subchapter, who have children with special needs, work nontraditional hours, or require child care services for infants and toddlers.

''(N) COORDINATION WITH TITLE IV OF THE SOCIAL SECURITY ACT.—Describe how the State will inform parents receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and low-income parents about eligibility for assistance under this subchapter.''.

(c) USE OF BLOCK GRANT FUNDS.—Section 658E(c)(3) the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (A), by striking ''as required under'' and inserting ''in accordance with''; and

(2) in subparagraph (B)—

(A) by striking ''The State'' and inserting the following:

''(i) IN GENERAL.—The State'';

(B) in clause (i) (as designated in subparagraph (A)), by striking ''appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b)'' and inserting ''appropriate (which may include an activity described in clause (ii)) to realize any of the goals specified in paragraphs (2) through (8) of section 658A(b)''; and

(C) by adding at the end the following:

''(ii) CHILD CARE RESOURCE AND REFERRAL SYSTEM.—A State may use amounts described in clause (i) to establish or support a system of local child care resource and referral organizations coordinated, to the extent determined appropriate by the State, by a statewide private, nonprofit, community-based lead child care resource and referral organization. The local child care resource and referral organizations shall—

''(I) provide parents in the State with information, and consumer education, concerning the full range of child care options, including child care provided during nontraditional hours and through emergency child care centers, in their communities;

''(II) collect and analyze data on the supply of and demand for child care in political subdivisions within the State;

''(III) submit reports to the State containing data and analysis described in clause (II); and

''(IV) work to establish partnerships with public agencies and private entities to increase the supply and quality of child care services.''.

(d) DIRECT SERVICES.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (A), by striking ''(D)'' and inserting ''(E)''; and

(2) by adding at the end the following:

''(E) DIRECT SERVICES.—From amounts provided to a State for a fiscal year to carry out this subchapter, the State shall—

''(i) reserve the minimum amount required to be reserved under section 658G, and the funds for costs described in subparagraph (C); and

''(ii) from the remainder, use not less than 70 percent to fund direct services (as defined by the State).''.

(e) PAYMENT RATES.—Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) in subparagraph (A), by striking ''The State plan'' and all that follows and inserting the following:

''(i) SURVEY.—The State plan shall—

''(I) demonstrate that the State has, after consulting with local area child care program administrators, developed and conducted a statistically valid and reliable survey of the market rates for child care services in the State (that reflects variations in the cost of child care services by geographic area, type of provider, and age of child) within the 2 years preceding the date of the submission of the application containing the State plan;

''(II) detail the results of the State market rates survey conducted pursuant to subclause (I);

''(III) describe how the State will provide for timely payment for child care services, and set payment rates for child care services, for which assistance is provided under this subchapter in accordance with the results of the market rates survey conducted pursuant to subclause (I) without reducing the number of families in the State receiving such assistance under this subchapter, relative to the number of such families on the date of introduction of the Caring for Children Act of 2005; and

''(IV) describe how the State will, not later than 30 days after the completion of the survey described in subclause (I), make the results of the survey widely available through public means, including posting the results on the Internet.

''(ii) EQUAL ACCESS.—The State plan shall include a certification that the payment rates are sufficient to ensure equal access for eligible children to child care services comparable to child care services in the State or substate area that are provided to children whose parents are not eligible to receive child care assistance under any Federal or State program.''; and

(2) in subparagraph (B)—

(A) by striking ''Nothing'' and inserting the following:

''(i) NO PRIVATE RIGHT OF ACTION.—Nothing''; and

(B) by adding at the end the following:

''(ii) NO PROHIBITION OF CERTAIN DIFFERENT RATES.—Nothing in this subchapter shall be construed to prevent a State from differentiating the payment rates described in subparagraph (A) on the basis of—

''(I) geographic location of child care providers (such as location in an urban or rural area);

''(II) the age or particular needs of children (such as children with special needs and children served by child protective services);

''(III) whether the providers provide child care during weekend and other nontraditional hours; and

''(IV) the State's determination that such differentiated payment rates are needed to enable a parent to choose child care that the parent believes to be of high quality.''.

SEC. 105. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended to read as follows:

''SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

''(a) IN GENERAL.—

''(1) RESERVATION.—Each State that receives funds to carry out this subchapter for a fiscal year shall reserve and use not less than 6 percent of the funds for activities provided directly, or through grants or contracts with resource and referral organizations or other appropriate entities, that are designed to improve the quality of child care services.

''(2) ACTIVITIES.—The funds reserved under paragraph (1) may only be used to—

''(A) develop and implement voluntary guidelines on pre-reading and language skills and activities, and prenumeracy and mathematics skills and activities, for child care programs in the State, that are aligned with State standards for kindergarten through grade 12 or the State's general goals for school preparedness;

''(B) support activities and provide technical assistance in Federal, State, and local child care settings to enhance early learning for preschool and school-aged children, to promote literacy, to foster school preparedness, and to support later school success;

''(C) offer training, professional development, and educational opportunities for child care providers that relate to the use of developmentally appropriate and age-appropriate curricula, and early childhood teaching strategies, that are scientifically based and aligned with the social, emotional, physical, and cognitive development of children, including—

''(i) developing and operating distance learning child care training infrastructures;

''(ii) developing model technology-based training courses;

''(iii) offering training for caregivers in informal child care settings; and

''(iv) offering training for child care providers who care for infants and toddlers and children with special needs.

''(D) engage in programs designed to increase the retention and improve the competencies of child care providers, including wage incentive programs and initiatives that establish tiered payment rates for providers that meet or exceed child care services guidelines, as defined by the State;

''(E) evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and

''(F) carry out other activities determined by the State to improve the quality of child care services provided in the State and for which measurement of outcomes relating to improved child safety, child well-being, or school preparedness is possible.

''(b) CERTIFICATION.—Beginning with fiscal year 2006, the State shall annually submit to the Secretary a certification in which the State certifies that the State was in compliance with subsection (a) during the preceding fiscal year and describes how the State used funds made available to carry out this subchapter to comply with subsection (a) during that preceding fiscal year.

''(c) STRATEGY.—The State shall annually submit to the Secretary—

''(1) beginning with fiscal year 2006, an outline of the strategy the State will implement during that fiscal year to address the quality of child care services for which financial assistance is made available under this subchapter, including—

''(A) a statement specifying how the State will address the activities carried out under subsection (a);

''(B) a description of quantifiable, objective measures that the State will use to evaluate the State's progress in improving the quality of the child care services (including measures regarding the impact, if any, of State efforts to improve the quality by increasing payment rates, as defined in section 658H(c)), evaluating separately the impact of the activities listed in each of such subparagraphs on the quality of the child care services; and

''(C) a list of State-developed child care services quality targets quantified for such fiscal year for such measures; and

''(2) beginning with fiscal year 2007, a report on the State's progress in achieving such targets for the preceding fiscal year.

''(d) IMPROVEMENT PLAN.—If the Secretary determines that a State failed to make progress as described in subsection (c)(2) for a fiscal year—

''(1) the State shall submit an improvement plan that describes the measures the State will take to make that progress; and

''(2) the State shall comply with the improvement plan by a date specified by the Secretary but not later than 1 year after the date of the determination.

''(e) CONSTRUCTION.—Nothing in this subchapter shall be construed to require that the State apply measures for evaluating quality of child care services to specific types of child care providers.''.

SEC. 106. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.

The Child Care and Development Block Grant Act of 1990 is amended by inserting after section 658G (42 U.S.C. 9858e) the following:

''SEC. 658H. OPTIONAL PRIORITY USE OF ADDITIONAL FUNDS.

''(a) IN GENERAL.—If a State receives funds to carry out this subchapter for a fiscal year, and the amount of the funds exceeds the amount of funds the State received to carry out this subchapter for fiscal year 2005, the State shall consider using a portion of the excess—

''(1) to support payment rate increases in accordance with the market rate survey conducted pursuant to section 658E(c)(4);

''(2) to support the establishment of tiered payment rates as described in section 658G(a)(2)(D); and

''(3) to support payment rate increases for care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3)).

''(b) NO REQUIREMENT TO REDUCE CHILD CARE SERVICES.—Nothing in this section shall be construed to require a State to take an action that the State determines would result in a reduction of child care services to families of eligible children.

''(c) PAYMENT RATE.—In this section, the term 'payment rate' means the rate of State payment or reimbursement to providers for subsidized child care.''.

SEC. 107. REPORTING REQUIREMENTS.

(a) HEADING.—Section 658K of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i) is amended by striking the section heading and inserting the following:

''SEC. 658K. REPORTS AND AUDITS.''.

(b) REQUIRED INFORMATION.—Section 658K(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858i(a)) is amended to read as follows:

''(a) REPORTS.—

''(1) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in paragraph (2) on a monthly basis.

''(2) REQUIRED INFORMATION.—The information required under this paragraph shall include, with respect to a family unit receiving assistance under this subchapter, information concerning—

''(A) family income;

''(B) county of residence;

''(C) the gender, race, and age of children receiving such assistance;

''(D) whether the head of the family unit is a single parent;

''(E) the sources of family income, including—

''(i) employment, including self-employment; and

''(ii) assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));

''(F) the type of child care in which the child was enrolled (such as family child care, home care, center-based child care, or other types of child care described in section 658T(5));

''(G) whether the child care provider involved was a relative;

''(H) the cost of child care for such family, separately stating the amount of the subsidy payment of the State and the amount of the co-payment of the family toward such cost;

''(I) the average hours per month of such care;

''(J) household size;

''(K) whether the parent involved reports that the child has an individualized education program or an individualized family service plan, as such terms are defined in section 602 of the Individuals with Disabilities Education Act; and

''(L) the reason for any termination of benefits under this subchapter, including whether the termination was due to—

''(i) the child's age exceeding the allowable limit;

''(ii) the family income exceeding the State eligibility limit;

''(iii) the State recertification or administrative requirements not being met;

''(iv) parent work, training, or education status no longer meeting State requirements;

''(v) a nonincome related change in status; or

''(vi) other reasons;

during the period for which such information is required to be submitted.

''(3) SUBMISSION TO SECRETARY.—A State described in paragraph (1) shall, on a quarterly basis, submit to the Secretary the information required to be collected under paragraph (2) and the number of children and families receiving assistance under this subchapter (stated on a monthly basis). Information on the number of families receiving the assistance shall also be posted on the website of such State. In the fourth quarterly report of each year, a State described in paragraph (1) shall also submit to the Secretary information on the annual number and type of child care providers (as described in section 658T(5)) that received funding under this subchapter and the annual number of payments made by the State through vouchers, under contracts, or by payment to parents reported by type of child care provider.

''(4) USE OF SAMPLES.—

''(A) AUTHORITY.—A State may comply with the requirement to collect the information described in paragraph (2) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

''(B) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary determines necessary to produce statistically valid samples of the information described in paragraph (2). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.''.

(c) PERIOD OF COMPLIANCE AND WAIVERS.—

(1) IN GENERAL.—States shall have 2 years from the date of enactment of this Act to comply with the changes to data collection and reporting required by the amendments made by this section.

(2) WAIVERS.—The Secretary of Health and Human Services may grant a waiver from paragraph (1) to States with plans to procure data systems.

SEC. 108. NATIONAL ACTIVITIES.

Section 658L of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858j) is amended to read as follows:

''SEC. 658L. NATIONAL ACTIVITIES.

''(a) REPORT.—

''(1) IN GENERAL.—The Secretary shall, not later than April 30, 2006, and annually thereafter, prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, and, not later than 30 days after the date of such submission, post on the Department of Health and Human Services website, a report that contains the following:

''(A) A summary and analysis of the data and information provided to the Secretary in the State reports submitted under sections 658E, 658G(c), and 658K.

''(B) Aggregated statistics on and an analysis of the supply of, demand for, and quality of child care, early education, and nonschool-hour programs.

''(C) An assessment and, where appropriate, recommendations for Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

''(D) A progress report describing the progress of the States in streamlining data reporting, the Secretary's plans and activities to provide technical assistance to States, and an explanation of any barriers to getting data in an accurate and timely manner.

''(2) COLLECTION OF INFORMATION.—The Secretary may make arrangements with resource and referral organizations, to utilize the child care data system of the resource and referral organizations at the national, State, and local levels, to collect the information required by paragraph (1)(B).

''(b) GRANTS TO IMPROVE QUALITY AND ACCESS.—

''(1) IN GENERAL.—The Secretary shall award grants to States, from allotments made under paragraph (2), to improve the quality of and access to child care for infants and toddlers, subject to the availability of appropriations for this purpose.

''(2) ALLOTMENTS.—From funds reserved under section 658O(a)(3) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relationship to such funds as the amount the State receives for the fiscal year under section 658O bears to the amount all States receive for the fiscal year under section 658O.

''(c) TOLL-FREE HOTLINE.—The Secretary shall award a grant or contract, or enter into a cooperative agreement for the operation of a national toll-free hotline to assist families in accessing local information on child care options and providing consumer education materials, subject to the availability of appropriations for this purpose.

''(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States on developing and conducting the State market rates survey described in section 658E(c)(4)(A)(i).''.

SEC. 109. ALLOCATION OF FUNDS FOR INDIAN TRIBES, QUALITY IMPROVEMENT, AND A HOTLINE.

(a) IN GENERAL.—Section 658O(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(a)) is amended—

(1) in paragraph (2), by striking ''not less than 1 percent, and not more than 2 percent,'' and inserting ''2 percent''; and

(2) by adding at the end the following:

''(3) GRANTS TO IMPROVE QUALITY AND ACCESS.—The Secretary shall reserve an amount not to exceed $100,000,000 for each fiscal year to carry out section 658L(b), subject to the availability of appropriations for this purpose.

''(4) TOLL-FREE HOTLINE.—The Secretary shall reserve an amount not to exceed $1,000,000 to carry out section 658L(c), subject to the availability of appropriations for this purpose.''.

(b) CONFORMING AMENDMENT.—Section 658O(c)(1) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(c)(1)) is amended by inserting ''(in accordance with the requirements of subparagraphs (E) and (F) of section 658E(c)(2) for such tribes or organizations)'' after ''applications under this section''.

SEC. 110. DEFINITIONS.

(a) ELIGIBLE CHILD.—Section 658P(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(4)) is amended—

(1) in subparagraph (B), in the matter preceding clause (i), by striking ''85 percent of the State median income for a family of the same size'' and inserting ''an income level determined by the State involved, with priority based on need as defined by the State''; and

(2) in subparagraph (C)—

(A) in clause (i), by striking ''a parent or parents'' and inserting ''a parent (including a legal guardian or foster parent) or parents''; and

(B) by striking clause (ii) and inserting the following:

''(ii)(I) is receiving, or needs to receive, protective services (which may include foster care) or is a child with significant cognitive or physical disabilities as defined by the State; and

''(II) resides with a parent (including a legal guardian or foster parent) or parents not described in clause (i).''.

(b) CHILD WITH SPECIAL NEEDS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended by inserting after paragraph (2) the following:

''(3) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means—

''(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act;

''(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act; and

''(C) a child with special needs, as defined by the State involved.''.

(c) LEAD AGENCY.—Section 658P(8) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(8)) is amended by striking ''section 658B(a)'' and inserting ''section 658D(a)''.

(d) PARENT.—Section 658P(9) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(9)) is amended by inserting '', foster parent,'' after ''guardian''.

(e) NATIVE HAWAIIAN ORGANIZATION.—Section 658P(14)(B) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n(14)(B)) is amended by striking ''Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4))'' and inserting ''Native Hawaiian organization, as defined in section 7207 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7517)''.

(f) REDESIGNATION.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) by redesignating section 658P as section 658T; and

(2) by moving that section 658T to the end of the Act.

SEC. 111. RULES OF CONSTRUCTION.

The Child Care and Development Block Grant Act of 1990 (as amended by section 110(f)) is further amended by inserting after section 658O (42 U.S.C. 9858m) the following:

''SEC. 658P. RULES OF CONSTRUCTION.

''Nothing in this subchapter shall be construed to require a State to impose State child care licensing requirements on any type of early childhood provider, including any such provider who is exempt from State child care licensing requirements on the date of enactment of the Caring for Children Act of 2005.''.

TITLE II—ENHANCING SECURITY AT CHILD CARE CENTERS IN FEDERAL FACILITIES

SEC. 201. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) CORRESPONDING CHILD CARE FACILITY.—The term ''corresponding child care facility'', used with respect to the Chief Administrative Officer of the House of Representatives, the Librarian of Congress, or the head of a designated entity in the Senate, means a child care facility operated by, or under a contract or licensing agreement with, an office of the House of Representatives, the Library of Congress, or an office of the Senate, respectively.

(3) ENTITY SPONSORING A CHILD CARE FACILITY.—The term ''entity sponsoring'', used with respect to a child care facility, means a Federal agency that operates, or an entity that enters into a contract or licensing agreement with a Federal agency to operate, a child care facility primarily for the use of Federal employees.

(4) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given the term in section 105 of title 5, United States Code, except that the term—

(A) does not include the Department of Defense and the Coast Guard; and

(B) includes the General Services Administration, with respect to the administration of a facility described in paragraph (5)(B).

(5) EXECUTIVE FACILITY.—The term ''executive facility''—

(A) means a facility that is owned or leased by an Executive agency; and

(B) includes a facility that is owned or leased by the General Services Administration on behalf of a judicial office.

(6) FEDERAL AGENCY.—The term ''Federal agency'' means an Executive agency, a legislative office, or a judicial office.

(7) JUDICIAL FACILITY.—The term ''judicial facility'' means a facility that is owned or leased by a judicial office (other than a facility that is also a facility described in paragraph (5)(B)).

(8) JUDICIAL OFFICE.—The term ''judicial office'' means an entity of the judicial branch of the Federal Government.

(9) LEGISLATIVE FACILITY.—The term ''legislative facility'' means a facility that is owned or leased by a legislative office.

(10) LEGISLATIVE OFFICE.—The term ''legislative office'' means an entity of the legislative branch of the Federal Government.

SEC. 202. ENHANCING SECURITY.

(a) COVERAGE.—

(1) EXECUTIVE BRANCH.—The Administrator shall issue the regulations described in subsection (b) for child care facilities, and entities sponsoring child care facilities, in executive facilities.

(2) LEGISLATIVE BRANCH.—The Chief Administrative Officer of the House of Representatives, the Librarian of Congress, and the head of a designated entity in the Senate shall issue the regulations described in subsection (b) for corresponding child care facilities, and entities sponsoring the corresponding child care facilities, in legislative facilities.

(3) JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts shall issue the regulations described in subsection (b) for child care facilities, and entities sponsoring child care facilities, in judicial facilities.

(b) REGULATIONS.—The officers and designated entity described in subsection (a) shall issue regulations that concern—

(1) matters relating to an occupant emergency plan and evacuations, such as—

(A) providing for building security committee membership for each director of a child care facility described in subsection (a);

(B) establishing a separate section in an occupant emergency plan for each such facility;

(C) promoting familiarity with procedures and evacuation routes for different types of emergencies (such as emergencies caused by hazardous materials, a fire, a bomb threat, a power failure, or a natural disaster);

(D) strengthening onsite relationships between security personnel and the personnel of such a facility, such as by ensuring that the post orders of guards reflect responsibility for the facility;

(E) providing specific, clear, and concise evacuation instructions for a facility, including instructions specifying who authorizes an evacuation;

(F) providing for good evacuation equipment, especially cribs; and

(G) promoting the ability to evacuate without outside assistance; and

(2) matters relating to relocation sites, such as—

(A) promoting an informed parent body that is knowledgeable about evacuation procedures and relocation sites;

(B) providing regularly updated parent contact information (regarding matters such as names, locations, electronic mail addresses, and cell phone and other telephone numbers);

(C) establishing remote telephone contact for parents, to and from areas that are not less than 10 miles from such a facility; and

(D) providing for an alternate site (in addition to regular sites) in the event of a catastrophe, which site may include—

(i) a site that would be an unreasonable distance from the facility under normal circumstances; and

(ii) a facility with 24-hour operations, such as a hotel or law school library.

TITLE III—REMOVAL OF BARRIERS TO INCREASING THE SUPPLY OF QUALITY CHILD CARE

SEC. 301. SMALL BUSINESS CHILD CARE GRANT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish a program to award grants to States, on a competitive basis, to assist States in providing funds to encourage the establishment and operation of employer-operated child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the funds required under subsection (e) will be provided.

(c) AMOUNT OF GRANT.—The Secretary shall determine the amount of a grant to a State under this section based on the population of the State as compared to the population of all States receiving grants under this section.

(d) USE OF FUNDS.—

(1) IN GENERAL.—A State shall use amounts provided under a grant awarded under this section to provide assistance to small businesses (or consortia formed in accordance with paragraph (3)) located in the State to enable the small businesses (or consortia) to establish and operate child care programs. Such assistance may include—

(A) technical assistance in the establishment of a child care program;

(B) assistance for the startup costs related to a child care program;

(C) assistance for the training of child care providers;

(D) scholarships for low-income wage earners;

(E) the provision of services to care for sick children or to provide care to school-aged children;

(F) the entering into of contracts with local resource and referral or local health departments;

(G) assistance for care for children with disabilities;

(H) payment of expenses for renovation or operation of a child care facility; or

(I) assistance for any other activity determined appropriate by the State.

(2) APPLICATION.—In order for a small business or consortium to be eligible to receive assistance from a State under this section, the small business involved shall prepare and submit to the State an application at such time, in such manner, and containing such information as the State may require.

(3) PREFERENCE.—

(A) IN GENERAL.—In providing assistance under this section, a State shall give priority to an applicant that desires to form a consortium to provide child care in a geographic area within the State where such care is not generally available or accessible.

(B) CONSORTIUM.—For purposes of subparagraph (A), a consortium shall be made up of 2 or more entities that shall include small businesses and that may include large businesses, nonprofit agencies or organizations, local governments, or other appropriate entities.

(4) LIMITATION.—With respect to grant funds received under this section, a State may not provide in excess of $500,000 in assistance from such funds to any single applicant.

(e) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall provide assurances to the Secretary that, with respect to the costs to be incurred by a covered entity receiving assistance in carrying out activities under this section, the covered entity will make available (directly or through donations from public or private entities) non-Federal contributions to such costs in an amount equal to—

(1) for the first fiscal year in which the covered entity receives such assistance, not less than 50 percent of such costs ($1 for each $1 of assistance provided to the covered entity under the grant);

(2) for the second fiscal year in which the covered entity receives such assistance, not less than 66⅔ percent of such costs ($2 for each $1 of assistance provided to the covered entity under the grant; and

(3) for the third fiscal year in which the covered entity receives such assistance, not less than 75 percent of such costs ($3 for each $1 of assistance provided to the covered entity under the grant.

(f) REQUIREMENTS OF PROVIDERS.—To be eligible to receive assistance under a grant awarded under this section, a child care provider shall comply with all applicable State and local licensing and regulatory requirements and all applicable health and safety standards in effect in the State.

(g) STATE-LEVEL ACTIVITIES.—A State may not retain more than 3 percent of the amount described in subsection (c) for State administration and other State-level activities.

(h) ADMINISTRATION.—

(1) STATE RESPONSIBILITY.—A State shall have responsibility for administering a grant awarded for the State under this section and for monitoring covered entities that receive assistance under such grant.

(2) AUDITS.—A State shall require each covered entity receiving assistance under the grant awarded under this section to conduct an annual audit with respect to the activities of the covered entity. Such audits shall be submitted to the State.

(3) MISUSE OF FUNDS.—

(A) REPAYMENT.—If the State determines, through an audit or otherwise, that a covered entity receiving assistance under a grant awarded under this section has misused the assistance, the State shall notify the Secretary of the misuse. The Secretary, upon such a notification, may seek from such a covered entity the repayment of an amount equal to the amount of any such misused assistance plus interest.

(B) APPEALS PROCESS.—The Secretary shall by regulation provide for an appeals process with respect to repayments under this paragraph.

(i) REPORTING REQUIREMENTS.—

(1) 2-YEAR STUDY.—

(A) IN GENERAL.—Not later than 2 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine—

(i) the capacity of covered entities to meet the child care needs of communities within States;

(ii) the kinds of consortia that are being formed with respect to child care at the local level to carry out programs funded under this section; and

(iii) who is using the programs funded under this section and the income levels of such individuals.

(B) REPORT.—Not later than 28 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(2) 4-YEAR STUDY.—

(A) IN GENERAL.—Not later than 4 years after the date on which the Secretary first awards grants under this section, the Secretary shall conduct a study to determine the number of child care facilities that are funded through covered entities that received assistance through a grant awarded under this section and that remain in operation, and the extent to which such facilities are meeting the child care needs of the individuals served by such facilities.

(B) REPORT.—Not later than 52 months after the date on which the Secretary first awards grants under this section, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the results of the study conducted in accordance with subparagraph (A).

(j) DEFINITIONS.—In this section:

(1) COVERED ENTITY.—The term ''covered entity'' means a small business or a consortium formed in accordance with subsection (d)(3).

(2) SMALL BUSINESS.—The term ''small business'' means an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year.

(k) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, $50,000,000 for the period of fiscal years 2006 through 2010.

(2) EVALUATIONS AND ADMINISTRATION.—With respect to the total amount appropriated for such period in accordance with this subsection, not more than $2,500,000 of that amount may be used for expenditures related to conducting evaluations required under, and the administration of, this section.

(l) TERMINATION OF PROGRAM.—The program established under subsection (a) shall terminate on September 30, 2010.

Mr. ENZI. Mr. President, today I am pleased to be joined by Senators KENNEDY, ALEXANDER and DODD in introducing the ''Caring for Children Act of 2005'' which reauthorizes the Child Care and Development Block Grant (CCDBG). This legislation is essential to continued success with welfare reform because it helps low-income parents find and pay for affordable child care so that they can work.

As members of this body know, child care vouchers provided to parents by States using CCDBG funds greatly facilitate the expansion of child care subsidies and promote parental choice by allowing eligible parents to select their preferred type of care setting and provider, including faith-based providers.

Current law provides States with flexibility in determining how to address the child care needs of low-income families and children, including establishing the eligibility requirements for participation.

The legislation we are introducing today adds even greater flexibility by proposing to eliminate the arbitrary Federal ceiling for eligibility. Removal of this ceiling, previously set at 85 percent of State median income, eliminates any Federal income-based restriction on State determination of who receives benefits. However States must continue to prioritize families based on need.

States provide child care assistance to both TANF and non-TANF families. For the first time the Caring for Children Act requires States and territories to show they are spending at least 70 percent of their mandatory child care money on actual subsidies for child care. For TANF families, families transitioning off TANF, and families at risk of becoming dependent on public assistance an assurance of the State's commitment to providing significant funds for direct assistance is critical.

The bill we are introducing today also addresses factors that in the past made finding care difficult for parents. We have specifically required States to meet the child care needs of parents who have children with special needs, parents who work non-traditional hours, or parents who need child care for infants and toddlers. Additionally, the legislation streamlines and reduces unnecessary paperwork by allowing States to provide assistance to eligible families for six months before re-determining eligibility.

The bill also supports the needs of small business owners and operators, by providing resources for small businesses to join together to provide child care for their employees. This will be of great help for rural areas, where small businesses provide most of the employment opportunities.

Last, but most importantly, the bill responds to, in significant ways, the very disturbing reports about the lack of quality in child care and the lack of tangible results from current investments in quality. The bill before us increases the quality set-aside from 4 to 6 percent and directs child care quality funds toward activities that can really make a difference. Under this bill, States would develop child care quality targets and would be held accountable to reach those targets. Quality funds would be available for States to: develop and implement voluntary guidelines on pre-reading and language skills and prenumeracy and mathematic skills and activities for child care programs in the State; support activities and provide technical assistance to enhance early learning and school preparedness in Federal, State and local child care settings; offer training, professional development and educational opportunities for child care providers that relate to scientifically based curricula and teaching strategies through several means including distance learning; offer incentives for child care providers that meet or exceed State child care services guidelines; evaluate and assess the quality and effectiveness of child care programs and services offered in the State to young children on improving overall school preparedness; and other activities that can be shown to improve child safety, child well-being, or school preparedness.

The improvements made to the program by this legislation and the resources it provides will continue to help provide quality child care in my home State of Wyoming, and other rural States. Many families in Wyoming reside in very isolated areas, and by helping to support child care centers in those rural areas, this legislation will help provide high quality child care; a service that many in those communities might otherwise be forced to do without.

This legislation represents a truly bipartisan effort and I look forward to having it signed into law this year. The Caring for Children Act includes some very important changes in our nation's premier child care program that provide families with the assistance they need to work and access to child care that best meets their children's needs.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, and Mrs. MURRAY):

S. 526. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I am pleased to be joined today by Senators DODD, KENNEDY, and MURRAY in once again introducing the Child Care Quality Incentive Act, which seeks to redouble our child care efforts and renew the child care partnership with the States by providing incentive funding to increase payment rates.

This legislation seeks to put high-quality child care within the reach of more working families. As things stand, States too often fund only a fraction of prevailing child care costs.

Under the Child Care and Development Block Grant (CCDBG), States are required to perform market rate surveys every two years. Yet many States

disregard them when it comes time to setting their payment rates, the level at which States reimburse child care providers who care for low-income children who receive a child care subsidy. As a result, States are unable to meet the law's promise to give eligible low-income families the same access to child care services as non-eligible families.

At stake are safe, supportive, and educationally enriching environments for children during the formative years that set the stage for future performance in school and beyond. When payment rates are set too low, child care centers that serve low-income children struggle to survive and may have to close. If they choose to stay afloat despite the limited ability of families to pay, the tradeoffs directly impact the quality of care. Such tradeoffs include smaller staffs, underpaid employees with few or no benefits, and limited employee training, educational materials, and community services like health screenings. Those centers that avoid this route may turn low-income children away or be forced out of business.

Under welfare reform we expect the neediest parents to hold jobs to sustain their families. We must also afford them responsible choices to protect their children while they pursue their economic future.

Our legislation creates a new mandatory funding pool under the Child Care and Development Block Grant to help States increase payment rates, while requiring States to set payment rates in line with updated market rate surveys. As such, it will allow more low-income families access to quality child care, and increase the availability of quality child care for all families.

Support for this legislation is strong among leading national organizations such as USA Child Care, the Children's Defense Fund, the YMCA of the USA, Catholic Charities of the USA, the Child Welfare League of America, and many more. A range of local and State organizations and providers have also offered endorsements.

This year, Congress is slated to reauthorize the Child Care and Development Block Grant. I urge my colleagues to join Senators DODD, KENNEDY, MURRAY, and me in this endeavor to improve the quality of child care by cosponsoring the Child Care Quality Incentive Act and working to include its provisions in the CCDBG reauthorization. The time to bring payment rates in line with market realities is now. Only then will the commitment to offer equal access to quality child care ring true.

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

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

S. 526

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 ''Child Care Quality Incentive Act of 2005''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Recent research on early brain development reveals that much of a child's growth is determined by early learning and nurturing care. Research also shows that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, increased likelihood of long-term school success, and greater likelihood of long-term economic and social self-sufficiency.

(2) Each day an estimated 13,000,000 children, including 6,000,000 infants and toddlers, spend some part of their day in child care. However, a study in 4 States found that only 1 in 7 child care centers provide care that promotes healthy development, while 1 in 8 child care centers provide care that threatens the safety and health of children.

(3) Full-day child care can cost $4,000 to $12,000 per year.

(4) Although Federal assistance is available for child care, funding is severely limited. Even with Federal subsidies, many families cannot afford child care. For families with young children and a monthly income under $1,200, the cost of child care typically consumes 25 percent of their income.

(5) Payment (or reimbursement) rates, which determine the maximum the State will reimburse a child care provider for the care of a child who receives a subsidy, are too low to ensure that quality care is accessible to all families.

(6) Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. In many instances, low payment rates force child care providers serving low-income children to cut corners in ways that impact the quality of care for the children, including reducing the number of staff, eliminating professional development opportunities, and cutting enriching educational activities and services.

(7) Children in low-quality child care are more likely to have delayed reading and language skills, and display more aggression toward other children and adults.

(8) Increased payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, provide salary increases and professional training, maintain a safe and healthy environment, and purchase basic supplies, children's literature, and developmentally appropriate educational materials.

(b) PURPOSE.—The purpose of this Act is to improve the quality of, and access to, child care by increasing child care payment rates.

SEC. 3. PAYMENT RATES.

Section 658E(c)(4) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(4)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) in subparagraph (A), by striking ''to comparable child care services'' and inserting ''to child care services that are comparable (in terms of quality and types of services provided) to child care services''; and

(3) by inserting after subparagraph (A) the following:

''(B) PAYMENT RATES.—

''(i) SURVEYS.—In order to provide the certification described in subparagraph (A), the State shall conduct statistically valid and reliable market rate surveys (that reflect variations in the cost of child care services by locality), in accordance with such methodology standards as the Secretary shall issue. The State shall conduct the surveys not less often than at 2-year intervals, and use the results of such surveys to implement, not later than 1 year after conducting each survey, payment rates described in subparagraph (A) that ensure equal access to comparable services as required by subparagraph (A).

''(ii) COST OF LIVING ADJUSTMENTS.—The State shall adjust the payment rates at intervals between such surveys to reflect increases in the cost of living, in such manner as the Secretary may specify.

''(iii) RATES FOR DIFFERENT AGES AND TYPES OF CARE.—The State shall ensure that the payment rates reflect variations in the cost of providing child care services for children of different ages and providing different types of care.

''(iv) PUBLIC DISSEMINATION.—The State shall, not later than 30 days after the completion of each survey described in clause (i), make the results of the survey widely available through public means, including posting the results on the Internet.''.

SEC. 4. INCENTIVE GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

(a) FUNDING.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking ''There'' and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There'';

(2) in subsection (a), by inserting ''(other than section 658H)'' after ''this subchapter''; and

(3) by adding at the end the following:

''(b) APPROPRIATION OF FUNDS FOR GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.—Out of any funds in the Treasury that are not otherwise appropriated, there is authorized to be appropriated and there is appropriated $500,000,000 for each of fiscal years 2006 through 2010, for the purpose of making grants under section 658H.''.

(b) USE OF BLOCK GRANT FUNDS.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (B), by striking ''under this subchapter'' and inserting ''under this subchapter (other than section 658B(b))''; and

(2) in subparagraph (D), by inserting ''(other than section 658H)'' after ''under this subchapter''.

(c) ESTABLISHMENT OF PROGRAM.—Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended by inserting ''(other than section 658H)'' after ''this subchapter''.

(d) GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by inserting after section 658G the following:

''SEC. 658H. GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall use the amount appropriated under section 658B(b) for a fiscal year to make grants to eligible States, and Indian tribes and tribal organizations, in accordance with this section.

''(2) ANNUAL PAYMENTS.—The Secretary shall make an annual payment for such a grant to each eligible State, and for Indian tribes and tribal organizations, out of the corresponding payment or allotment made under subsections (a), (b), and (e) of section 658O from the amount appropriated under section 658B(b).

''(b) ELIGIBLE STATES.—

''(1) IN GENERAL.—In this section, the term 'eligible State' means a State that—

''(A) has conducted a statistically valid survey of the market rates for child care

services in the State within the 2 years preceding the date of the submission of an application under paragraph (2); and

''(B) submits an application in accordance with paragraph (2).

''(2) APPLICATION.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, in addition to the information required under subparagraph (B), as the Secretary may require.

''(B) INFORMATION REQUIRED.—Each application submitted for a grant under this section shall—

''(i) detail the methodology and results of the State market rates survey conducted pursuant to paragraph (1)(A);

''(ii) describe the State's plan to increase payment rates from the initial baseline determined under clause (i);

''(iii) describe how the State will increase payment rates in accordance with the market survey results, for all types of child care providers who provide services for which assistance is made available under this subchapter;

''(iv) describe how payment rates will be set to reflect the variations in the cost of providing care for children of different ages and different types of care;

''(v) describe how the State will prioritize increasing payment rates for—

''(I) care of higher-than-average quality, such as care by accredited providers or care that includes the provision of comprehensive services;

''(II) care for children with disabilities and children served by child protective services; or

''(III) care for children in communities served by local educational agencies that have been identified for improvement under section 1116(c)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(c)(3));

''(vi) describe the State's plan to assure that the State will make the payments on a timely basis and follow the usual and customary market practices with regard to payment for child absentee days; and

''(vii) describe the State's plans for making the results of the survey widely available through public means.

''(3) CONTINUING ELIGIBILITY REQUIREMENT.—

''(A) SECOND AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a second or subsequent annual payment under this section only if the Secretary determines that the State has made progress, through the activities assisted under this subchapter, in maintaining increased payment rates.

''(B) THIRD AND SUBSEQUENT PAYMENTS.—A State shall be eligible to receive a third or subsequent annual payment under this section only if the State has conducted, at least once every 2 years, an update of the survey described in paragraph (1)(A).

''(4) REQUIREMENT OF MATCHING FUNDS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, the State shall agree to make available State contributions from State sources toward the costs of the activities to be carried out by the State pursuant to subsection (c) in an amount that is not less than 20 percent of such costs.

''(B) DETERMINATION OF STATE CONTRIBUTIONS.—Such State contributions shall be in cash. Amounts provided by the Federal Government may not be included in determining the amount of such State contributions.

''(c) USE OF FUNDS.—

''(1) PRIORITY USE.—An eligible State that receives a grant under this section shall use the funds received to significantly increase the payment rate for the provision of child care assistance in accordance with this subchapter up to the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A).

''(2) ADDITIONAL USES.—An eligible State that demonstrates to the Secretary that the State has achieved a payment rate of the 100th percentile of the market rate determined under the market rate survey described in subsection (b)(1)(A) may use funds received under a grant made under this section for any other activity that the State demonstrates to the Secretary will enhance the quality of child care services provided in the State.

''(3) SUPPLEMENT NOT SUPPLANT.—Amounts paid to a State under this section shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under this subchapter or any other provision of law.

''(d) EVALUATIONS AND REPORTS.—

''(1) STATE EVALUATIONS.—Each eligible State shall submit to the Secretary, at such time and in such form and manner as the Secretary may require, information regarding the State's efforts to increase payment rates and the impact increased payment rates are having on the quality of child care in the State and the access of parents to high-quality child care in the State.

''(2) REPORTS TO CONGRESS.—The Secretary shall submit biennial reports to Congress on the information described in paragraph (1). Such reports shall include data from the applications submitted under subsection (b)(2) as a baseline for determining the progress of each eligible State in maintaining increased payment rates.

''(e) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary shall determine the manner in which and the extent to which the provisions of this section apply to Indian tribes and tribal organizations.

''(f) PAYMENT RATE.—In this section, the term 'payment rate' means the rate of reimbursement to providers for subsidized child care.''.

(e) PAYMENTS.—Section 658J(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858h(a)) is amended by inserting ''from funds appropriated under section 658B(a)'' after ''section 658O''.

(f) ALLOTMENT.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A)—

(A) by striking ''section 658B'' and inserting ''section 658B(a)''; and

(B) by inserting ''and from the amounts appropriated under section 658B(b) for each fiscal year remaining after reservations under subsection (a),'' before ''the Secretary shall allot''; and

(2) in subsection (e)—

(A) in paragraph (1), by striking ''the allotment under subsection (b)'' and inserting ''an allotment made under subsection (b)''; and

(B) in paragraph (3), by inserting ''corresponding'' before ''allotment''.

Mr. KENNEDY. Mr. President, I'm pleased to join my colleagues in introducing the Caring for Children Act of 2005. We were able to work together on both sides of the aisle to prepare this bill to reauthorize the Child Care and Development Block Grant program. The Caring for Children Act reflects our common goals to expand access and improve the quality of child care for children and families throughout the Nation.

Child care is a key issue in both welfare reform and education reform. The success of our welfare system rests on our ability to provide dependable and consistent child care support for low-income families, so that they can work and provide for their families. Improving the quality of child care and the environment in which our children develop is an essential responsibility of our society as a whole, and this legislation can be an important part of our effort in Congress to meet that responsibility.

Today, 65 percent of parents with young children and 79 percent of parents with school age children are in America's workforce. During the working day, 14 million children are cared for by someone other than a parent.

For low-income families and single mothers, child care assistance is a lifeline. Low-income mothers who receive child care assistance are 40 percent more likely to remain employed after 2 years, compared to those who do not receive such support. Yet child care is still unaffordable for far too many families—full-day care can easily cost thousands of dollars a year and become an impossible expense for millions of families.

The Caring for Children Act will expand access to child care and do more to deliver the support that working parents need in obtaining effective child care. The bill supports activities to help parents fmd quality care through State Resource and Referral Centers, so that greater information and outreach to parents will be available.

Child care is a vital support for working parents, and it is also an essential link in preparing young children for school. Research shows that the early environments in which children learn and develop have a profound impact on their later development and on their success in school. Unfortunately, much remains to be done to improve the quality of child care. Nearly half of all kindergarten teachers report that the majority of children in each entering class has specific problems, including difficulty in following directions, lack of even the most basic academic skills, troubled situations at home, or difficulty in relating to other children.

The Caring for Children Act seeks to improve the quality of child care available to low-income children and their families through the Child Care and Development Block Grant. The bill will raise the amount of funds that States must dedicate to quality activities from 4 to 6 percent.

Most important, the Act will promote better child care by focusing on activities that make children ready to learn, and encouraging States to improve child safety and well-being. Funds will be used to provide greater training and support for child care workers, establish voluntary guidelines for school preparedness, and enhance the early learning of young children.

Investments in the child care workforce are also essential to improve the quality of care. Today, only one in

seven child care centers provides a level of quality adequate for child development. Thirty states have no preservice training requirements for child care workers. Our bill supports professional development and education opportunities for child care providers to upgrade their skills and to use proven and effective early learning materials and teaching strategies in their work. It encourages states to increase the recruitment and retention of qualified child care staff and reduce the high turnover rates in child care centers.

We must also do more to ensure that states provide timely and adequate payments for high quality care. The Caring for Children Act will improve reimbursement rates for care in the states, and more effectively use the market survey required under current law to establish payment rates. I commend Senator REED for his leadership on those provisions.

Finally, the Caring for Children Act creates a new Federal commitment to serve children in need, including families with infants and toddlers, children with disabilities, and families that require special care during non-traditional work hours. Thanks to Senator HARKIN's leadership, the needs of infants and toddlers will continue to be addressed in this bill.

The Caring for Children Act builds on effective practices already underway in many states, but we still have a long way to go to see that all children have access to good child care. More resources are clearly required, and the need is urgent.

In nearly half the states, eligible children are being placed on waiting lists or being turned away altogether. In Massachusetts, over 16,000 low-income children are on waiting lists.

Instead of responding to this need, the President's budget for Fiscal Year 2006 freezes funding for the Child Care and Development Block Grant. Under the Administration's own calculations, 300,000 fewer low-income children will have access to child care assistance by 2010. Surely, we can do better.

It makes no sense to cut back on child care for low-income children. We need to serve as many needy children as possible. I look forward very much to working with our colleagues on the Finance Committee to make that goal a reality as the reauthorization of the Temporary Assistance for Needy Families Block Grant moves forward this year.

I commend Senators ENZI, ALEXANDER, and DODD for their impressive work on this bill. I urge all of my colleagues in the Senate to support this important legislation and work with us to provide the support for quality child care that low-income families throughout America need and deserve.

By Mr. LAUTENBERG (for himself, Mr. CORZINE, Mr. SCHUMER, and Mrs. CLINTON):

S. 527. A bill to protect the Nation's law enforcement officers by banning the Five-seveN Pistol and 5.7 x 28mm SS190 and SS192 cartridges, testing handguns and ammunition for capability to penetrate body armor, and prohibiting the manufacture, importation, sale, or purchase of such handguns or ammunition by civilians; to the Committee on the Judiciary.

Mr. LAUTENBERG. Mr. President, the tragic attacks of September 11, 2001 reminded us that police are heroes who risk their lives to protect us.

That's why it's so outrageous that a gun manufacturer would design and market a ''cop killer'' weapon.

Today on the streets of our cities there is a handgun, called the Five-SeveN, that was specifically designed to pierce bulletproof vests like the ones worn by police.

The web site for this gun actually brags that it can pierce protective armor—that it is a potential cop killer.

One of these weapons was recently confiscated by police officer in Camden, NJ, from a suspect charged with trafficking in large amounts of narcotics.

If there had been a gunfight, the police would have been outgunned.

Who knows how many cop-killer guns are on the streets of my State—or yours?

Police across the nation are alarmed by this weapon. The police chief of Jersey City, Robert Troy, recently pleaded with Congress to ban this gun.

That's why I have introduced the Protect Law Enforcement Armor (PLEA) Act to take ''cop-killer guns'' off the streets. And, I am pleased Senators CORZINE, SCHUMER and CLINTON are co-sponsors of this legislation.

There might be a place for this gun on a battlefield . . . but not near a playground.

Not on our streets.

The cop-killer gun isn't good for hunting. The last time I checked, deer didn't wear bulletproof vests.

It isn't for target shooting.

It isn't even a practical weapon for protection against home intruders.

The cop-killer gun was designed for one thing—piercing the protective armor worn by police officers.

This is a weapon a terrorist or criminal would love: light and easily concealed, yet so powerful that it can penetrate a bullet-proof vest from a distance of more than two football fields.

Armor-piercing bullets are already illegal, but the cop-killer gun has slipped through a loophole in the law.

Simply put, this gun skirts the law by delivering ammunition with unusual velocity, turning otherwise legal bullets into ''cop killers.''

We can't sit by. We must protect our police.

We must ban the cop-killer gun and close the loophole on cop-killer bullets.

Our police officers risk their lives to protect us . . . but we should reduce that risk as much as possible.

Let's get cop-killer guns off our streets.

Let's pass the PLEA Act.

The PLEA Act is simple. It would ban the Five-seven assault pistol, ban the special armor piecing FN 5.7 x 28mm S 192 ammunition, expand the federal definition of armor piercing ammunition, and require the Attorney General to test any ammunition that is capable of penetrating body armor.

The PLEA Act does not apply to the military and law enforcement. In fact, it specifically exempts sale of armor piercing ammunition to the military and law enforcement.

I encourage my colleagues to support it.

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

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

S. 527

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protect Law Enforcement Armor Act'' or the ''PLEA Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Law enforcement is facing a new threat from handguns and accompanying ammunition, which are designed to penetrate police body armor, being marketed and sold to civilians.

(2) A Five-seveN Pistol and accompanying ammunition, manufactured by FN Herstal of Belgium as the ''5.7 x 28 mm System,'' has recently been recovered by law enforcement on the streets. The Five-seveN Pistol and 5.7 x 28mm SS192 cartridges are legally available for purchase by civilians under current law.

(3) The Five-seveN Pistol and 5.7 x 28mm SS192 cartridges are capable of penetrating level IIA armor. The manufacturer advertises that ammunition fired from the Five-seveN will perforate 48 layers of Kevlar up to 200 meters and that the ammunition travels at 2100 feet per second.

(4) The Five-seveN Pistol, and similar handguns designed to use ammunition capable of penetrating body armor, pose a devastating threat to law enforcement.

(b) PURPOSE.—The purpose of this Act is to protect the Nation's law enforcement officers by—

(1) testing handguns and ammunition for capability to penetrate body armor; and

(2) prohibiting the manufacture, importation, sale, or purchase by civilians of the Five-seveN Pistol, ammunition for such pistol, or any other handgun that uses ammunition found to be capable of penetrating body armor.

SEC. 3. ARMOR PIERCING AMMUNITION.

(a) EXPANSION OF DEFINITION OF ARMOR PIERCING AMMUNITION.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) a projectile that—

''(I) may be used in a handgun; and

''(II) the Attorney General determines, pursuant to section 926(d), to be capable of penetrating body armor.''.

(b) DETERMINATION OF CAPABILITY OF PROJECTILES TO PENETRATE BODY ARMOR.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

''(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

''(2) The standards promulgated pursuant to paragraph (1) shall take into account, among other factors, variations in performance that are related to the type of handgun used, the length of the barrel of the handgun, the amount and kind of powder used to propel the projectile, and the design of the projectile.

''(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.''

SEC. 4. ARMOR PIERCING HANDGUNS AND AMMUNITION.

(a) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding after subsection (y):

''(z) FIVE-SEVEN PISTOL.—

''(1) IN GENERAL.—It shall be unlawful for any person to manufacture, import, market, sell, ship, deliver, possess, transfer, or receive—

''(A) the Fabrique Nationale Herstal Five-SeveN Pistol;

''(B) 5.7 x 28mm SS190 and SS192 cartridges; or

''(C) any other handgun that uses armor piercing ammunition.

''(2) EXCEPTIONS.—This subsection shall not apply to—

''(A) any firearm or armor piercing ammunition manufactured for, and sold exclusively to, military, law enforcement, or intelligence agencies of the United States; and

''(B) the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm or armor piercing ammunition by a licensed manufacturer, or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm or ammunition to determine whether paragraph (1) applies to such firearm.''.

(b) PENALTIES.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking ''or (q)'' and inserting ''(q), or (z)''.

By Mr. HARKIN (for himself and Mr. SMITH):

S. 528. A bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice; to the Committee on Finance.

Mr. HARKIN. Mr. President, today I, along with Senator SMITH, introduce the Money Follows the Person Act of 2005. This legislation is needed to truly bring people with disabilities into the mainstream of society and provide equal opportunity for employment and community activities.

In order to work or live in their own homes, Americans with disabilities need access to community-based services and supports. Unfortunately, under current Federal Medicaid policy, the deck is stacked in favor of living in an institution. The purpose of this bill is to level the playing field and give eligible individuals equal access to community-based services and supports.

Under our legislation, the Medicaid money paid by states and the Federal government would follow the person with a disability from an institution into the community. This legislation provides 100 percent Federal reimbursement for the community services that an individual needs during the first year that they move out of an institution or nursing home. By fully reimbursing the states, it gives them some additional resources to allow people with disabilities to choose to live in the community.

President Bush first proposed the Money Follows the Person Rebalancing Initiative in his FY '04 budget and indicated that the demonstration project would provide full Federal reimbursement for community services for the first year that an individual moves out of an institution or nursing home. Senator SMITH and I have worked with the disability community and others in drafting this legislation, and we look forward to working with the Administration and our colleagues to enact the Money Follows the Person concept into law.

We have a Medicaid system in this country that is spending approximately two-thirds of its dollars on institutional care and approximately one-third on community services. This bill is an important step toward switching those numbers around.

It is shameful that our federal dollars are being spent to segregate people, not integrate them. It has been 15 years since we passed the Americans with Disabilities Act, which said ''no'' to segregation. But our Medicaid program says ''yes'' and we need to change it. This is the next civil rights battle. If we really meant what we said in the ADA in 1990, we should enact this legislation.

The civil right of a person with a disability to be integrated into his or her community should not depend on his or her address. In Olmstead v. LC, the Supreme Court recognized that needless institutionalization is a form of discrimination under the Americans with Disabilities Act. We in Congress have a responsibility to help States meet their obligations under Olmstead. An individual should not be asked to move to another state in order to avoid needless segregation. They also should not be moved away from family and friends because their only choice is an institution.

Federal Medicaid policy should reflect the consensus reached in the ADA that Americans with disabilities should have equal opportunity to contribute to our communities and participate in our society as full citizens. That means no one has to sacrifice their full participation in society because they need help getting out of the house in the morning or assistance with personal care or some other basic service.

This bill will open the door to full participation by people with disabilities in our neighborhoods, our communities, our workplaces, and our American Dream, and I urge all my colleagues to support us on this issue. I want to thank Senator SMITH for his commitment to improving access to home and community based services for people with disabilities.

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

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

S. 528

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 ''Money Follows the Person Act of 2005''.

SEC. 2. MONEY FOLLOWS THE PERSON REBALANCING DEMONSTRATION.

(a) PROGRAM PURPOSE AND AUTHORITY.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') is authorized to award, on a competitive basis, grants to States in accordance with this section for demonstration projects (each in this section referred to as a ''MFP demonstration project'') designed to achieve the following objectives with respect to institutional and home and community-based long-term care services under State medicaid programs:

(1) REBALANCING.—Increase the use of home and community-based, rather than institutional, long-term care services.

(2) MONEY FOLLOWS THE PERSON.—Eliminate barriers or mechanisms, whether in the State law, the State medicaid plan, the State budget, or otherwise, that prevent or restrict the flexible use of medicaid funds to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

(3) CONTINUITY OF SERVICE.—Increase the ability of the State medicaid program to assure continued provision of home and community-based long-term care services to eligible individuals who choose to transition from an institutional to a community setting.

(4) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—Ensure that procedures are in place (at least comparable to those required under the qualified HCB program) to provide quality assurance for eligible individuals receiving medicaid home and community-based long-term care services and to provide for continuous quality improvement in such services.

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

(1) HOME AND COMMUNITY-BASED LONG-TERM CARE SERVICES.—The term ''home and community-based long-term care services'' means, with respect to a State medicaid program, home and community-based services (including home health and personal care services) that are provided under the State's qualified HCB program or that could be provided under such a program but are otherwise provided under the medicaid program.

(2) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' means, with respect to an MFP demonstration project of a State, an individual in the State—

(A) who, immediately before beginning participation in the MFP demonstration project—

(i) resides (and has resided, for a period of not less than six months or for such longer minimum period, not to exceed 2 years, as may be specified by the State) in an inpatient facility;

(ii) is receiving medicaid benefits for inpatient services furnished by such inpatient facility; and

(iii) with respect to whom a determination has been made that, but for the provision of home and community-based long-term care services, the individual would continue to require the level of care provided in an inpatient facility; and

(B) who resides in a qualified residence beginning on the initial date of participation in the demonstration project.

(3) INPATIENT FACILITY.—The term ''inpatient facility'' means a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such term includes an institution for mental diseases, but only, with respect to a State, to the extent medical assistance is available under the State medicaid plan for services provided by such institution.

(4) INDIVIDUAL'S AUTHORIZED REPRESENTATIVE.—The term ''individual's authorized representative'' means, with respect to an eligible individual, the individual's parent, family member, guardian, advocate, or other authorized representative of the individual.

(5) MEDICAID.—The term ''medicaid'' means, with respect to a State, the State program under title XIX of the Social Security Act (including any waiver or demonstration under such title or under section 1115 of such Act relating to such title).

(6) QUALIFIED HCB PROGRAM.—The term ''qualified HCB program'' means a program providing home and community-based long-term care services operating under medicaid, whether or not operating under waiver authority.

(7) QUALIFIED RESIDENCE.—The term ''qualified residence'' means, with respect to an eligible individual—

(A) a home owned or leased by the individual or the individual's family member;

(B) an apartment with an individual lease, with lockable access and egress, and which includes living, sleeping, bathing, and cooking areas over which the individual or the individual's family has domain and control; and

(C) a residence, in a community-based residential setting, in which no more than 4 unrelated individuals reside.

(8) QUALIFIED EXPENDITURES.—The term ''qualified expenditures'' means expenditures by the State under its MFP demonstration project for home and community-based long-term care services for an eligible individual participating in the MFP demonstration project, but only with respect to services furnished during the 12-month period beginning on the date the individual is discharged from an inpatient facility referred to in paragraph (2)(A)(i).

(9) SELF-DIRECTED SERVICES.—The term ''self-directed'' means, with respect to, home and community-based long-term care services for an eligible individual, such services for the individual which are planned and purchased under the direction and control of such individual or the individual's authorized representative, including the amount, duration, scope, provider, and location of such services, under the State medicaid program consistent with the following requirements:

(A) ASSESSMENT.—There is an assessment of the needs, capabilities, and preferences of the individual with respect to such services.

(B) SERVICE PLAN.—Based on such assessment, there is developed jointly with such individual or the individual's authorized representative a plan for such services for such individual that is approved by the State and that—

(i) specifies those services which the individual or the individual's authorized representative would be responsible for directing;

(ii) identifies the methods by which the individual or the individual's authorized representative will select, manage, and dismiss providers of such services;

(iii) specifies the role of family members and others whose participation is sought by the individual or the individual's authorized representative with respect to such services;

(iv) is developed through a person-centered process that—

(I) is directed by the individual or the individual's authorized representative;

(II) builds upon the individual's capacity to engage in activities that promote community life and that respects the individual's preferences, choices, and abilities; and

(III) involves families, friends, and professionals as desired or required by the individual or the individual's authorized representative;

(v) includes appropriate risk management techniques that recognize the roles and sharing of responsibilities in obtaining services in a self-directed manner and assure the appropriateness of such plan based upon the resources and capabilities of the individual or the individual's authorized representative; and

(vi) may include an individualized budget which identifies the dollar value of the services and supports under the control and direction of the individual or the individual's authorized representative.

(C) BUDGET PROCESS.—With respect to individualized budgets described in subparagraph (B)(vi), the State application under subsection (c)—

(i) describes the method for calculating the dollar values in such budgets based on reliable costs and service utilization;

(ii) defines a process for making adjustments in such dollar values to reflect changes in individual assessments and service plans; and

(iii) provides a procedure to evaluate expenditures under such budgets.

(10) STATE.—The term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act.

(c) STATE APPLICATION.—A State seeking approval of an MFP demonstration project shall submit to the Secretary, at such time and in such format as the Secretary requires, an application meeting the following requirements and containing such additional information, provisions, and assurances, as the Secretary may require:

(1) ASSURANCE OF A PUBLIC DEVELOPMENT PROCESS.—The application contains an assurance that the State has engaged, and will continue to engage, in a public process for the design, development, and evaluation of the MFP demonstration project that allows for input from eligible individuals, the families of such individuals, authorized representatives of such individuals, providers, and other interested parties.

(2) OPERATION IN CONNECTION WITH QUALIFIED HCB PROGRAM TO ASSURE CONTINUITY OF SERVICES.—The State will conduct the MFP demonstration project for eligible individuals in conjunction with the operation of a qualified HCB program that is in operation (or approved) in the State for such individuals in a manner that assures continuity of medicaid coverage for such individuals so long as such individuals continue to be eligible for medical assistance.

(3) DEMONSTRATION PROJECT PERIOD.—The application shall specify the period of the MFP demonstration project, which shall include at least two consecutive fiscal years in the 5-fiscal-year period beginning with fiscal year 2006.

(4) SERVICE AREA.—The application shall specify the service area or areas of the MFP demonstration project, which may be a Statewide area or one or more geographic areas of the State.

(5) TARGETED GROUPS AND NUMBERS OF INDIVIDUALS SERVED.—The application shall specify—

(A) the target groups of eligible individuals to be assisted to transition from an inpatient facility to a qualified residence during each fiscal year of the MFP demonstration project;

(B) the projected numbers of eligible individuals in each targeted group of eligible individuals to be so assisted during each such year; and

(C) the estimated total annual qualified expenditures for each fiscal year of the MFP demonstration project.

(6) INDIVIDUAL CHOICE, CONTINUITY OF CARE.—The application shall contain assurances that—

(A) each eligible individual or the individual's authorized representative will be provided the opportunity to make an informed choice regarding whether to participate in the MFP demonstration project;

(B) each eligible individual or the individual's authorized representative will choose the qualified residence in which the individual will reside and the setting in which the individual will receive home and community-based long-term care services;

(C) the State will continue to make available, so long as the State operates its qualified HCB program consistent with applicable requirements, home and community-based long-term care services to each individual who completes participation in the MFP demonstration project for as long as the individual remains eligible for medical assistance for such services under such qualified HCB program (including meeting a requirement relating to requiring a level of care provided in an inpatient facility and continuing to require such services).

(7) REBALANCING.—The application shall—

(A) provide such information as the Secretary may require concerning the dollar amounts of State medicaid expenditures for the fiscal year, immediately preceding the first fiscal year of the State's MFP demonstration project, for long-term care services and the percentage of such expenditures that were for institutional long-term care services or were for home and community-based long-term care services;

(B)(i) specify the methods to be used by the State to increase, for each fiscal year during the MFP demonstration project, the dollar amount of such total expenditures for home and community-based long-term care services and the percentage of such total expenditures for long-term care services that are for home and community-based long-term care services; and

(ii) describe the extent to which the MFP demonstration project will contribute to accomplishment of objectives described in subsection (a).

(8) MONEY FOLLOWS THE PERSON.—The application shall describe the methods to be used by the State to eliminate any legal, budgetary, or other barriers to flexibility in the availability of medicaid funds to pay for long-term care services for eligible individuals participating in the project in the appropriate settings of their choice, including costs to transition from an institutional setting to a qualified residence.

(9) MAINTENANCE OF EFFORT AND COST-EFFECTIVENESS.—The application shall contain or be accompanied by such information and assurances as may be required to satisfy the Secretary that—

(A) total expenditures under the State medicaid program for home and community-based long-term care services will not be less for any fiscal year during the MFP demonstration project than for the greater of such expenditures for—

(i) fiscal year 2004; or

(ii) any succeeding fiscal year before the first year of the MFP demonstration project; and

(B) in the case of a qualified HCB program operating under a waiver under subsection (c) or (d) of section 1915 of the Social Security Act (42 U.S.C. 1396n), but for the amount awarded under a grant under this section, the State program would continue to meet the cost-effectiveness requirements of subsection (c)(2)(D) of such section or comparable requirements under subsection (d)(5) of such section, respectively.

(10) WAIVER REQUESTS.—The application shall contain or be accompanied by requests for any modification or adjustment of waivers of medicaid requirements described in subsection (d)(3), including adjustments to maximum numbers of individuals included and package of benefits, including one-time transitional services, provided.

(11) QUALITY ASSURANCE AND QUALITY IMPROVEMENT.—The application shall include—

(A) a plan satisfactory to the Secretary for quality assurance and quality improvement for home and community-based long-term care services under the State medicaid program, including a plan to assure the health and welfare of individuals participating in the MFP demonstration project; and

(B) an assurance that the State will cooperate in carrying out activities under subsection (f) to develop and implement continuous quality assurance and quality improvement systems for home and community-based long-term care services.

(12) OPTIONAL PROGRAM FOR SELF-DIRECTED SERVICES.—If the State elects to provide for any home and community-based long-term care services as self-directed services (as defined in subsection (b)(9)) under the MFP demonstration project, the application shall provide the following:

(A) MEETING REQUIREMENTS.—A description of how the project will meet the applicable requirements of such subsection for the provision of self-directed services.

(B) VOLUNTARY ELECTION.—A description of how eligible individuals will be provided with the opportunity to make an informed election to receive self-directed services under the project and after the end of the project.

(C) STATE SUPPORT IN SERVICE PLAN DEVELOPMENT.—Satisfactory assurances that the State will provide support to eligible individuals who self-direct in developing and implementing their service plans.

(D) OVERSIGHT OF RECEIPT OF SERVICES.—Satisfactory assurances that the State will provide oversight of eligible individual's receipt of such self-directed services, including steps to assure the quality of services provided and that the provision of such services are consistent with the service plan under such subsection.

Nothing in this section shall be construed as requiring a State to make an election under the project to provide for home and community-based long-term care services as self-directed services, or as requiring an individual to elect to receive self-directed services under the project.

(13) REPORTS AND EVALUATION.—The application shall provide that—

(A) the State will furnish to the Secretary such reports concerning the MFP demonstration project, on such timetable, in such uniform format, and containing such information as the Secretary may require, as will allow for reliable comparisons of MFP demonstration projects across States; and

(B) the State will participate in and cooperate with the evaluation of the MFP demonstration project.

(d) SECRETARY'S AWARD OF COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to States selected from among those with applications meeting the requirements of subsection (c), in accordance with the provisions of this subsection.

(2) SELECTION AND MODIFICATION OF STATE APPLICATIONS.—In selecting State applications for the awarding of such a grant, the Secretary—

(A) shall take into consideration the manner in which and extent to which the State proposes to achieve the objectives specified in subsection (a);

(B) shall seek to achieve an appropriate national balance in the numbers of eligible individuals, within different target groups of eligible individuals, who are assisted to transition to qualified residences under MFP demonstration projects, and in the geographic distribution of States operating MFP demonstration projects;

(C) shall give preference to State applications proposing—

(i) to provide transition assistance to eligible individuals within multiple target groups; and

(ii) to provide eligible individuals with the opportunity to receive home and community-based long-term care services as self-directed services, as defined in subsection (b)(9); and

(D) shall take such objectives into consideration in setting the annual amounts of State grant awards under this section.

(3) WAIVER AUTHORITY.—The Secretary is authorized to waive the following provisions of title XIX of the Social Security Act, to the extent necessary to enable a State initiative to meet the requirements and accomplish the purposes of this section:

(A) STATEWIDENESS.—Section 1902(a)(1), in order to permit implementation of a State initiative in a selected area or areas of the State.

(B) COMPARABILITY.—Section 1902(a)(10)(B), in order to permit a State initiative to assist a selected category or categories of individuals described in subsection (b)(2)(A).

(C) INCOME AND RESOURCES ELIGIBILITY.—Section 1902(a)(10)(C)(i)(III), in order to permit a State to apply institutional eligibility rules to individuals transitioning to community-based care.

(D) PROVIDER AGREEMENTS.—Section 1902(a)(27), in order to permit a State to implement self-directed services in a cost-effective manner.

(4) CONDITIONAL APPROVAL OF OUTYEAR GRANT.—In awarding grants under this section, the Secretary shall condition the grant for the second and any subsequent fiscal years of the grant period on the following:

(A) NUMERICAL BENCHMARKS.—The State must demonstrate to the satisfaction of the Secretary that it is meeting numerical benchmarks specified in the grant agreement for—

(i) increasing State medicaid support for home and community-based long-term care services under subsection (c)(5); and

(ii) numbers of eligible individuals assisted to transition to qualified residences.

(B) QUALITY OF CARE.—The State must demonstrate to the satisfaction of the Secretary that it is meeting the requirements under subsection (c)(9) to assure the health and welfare of MFP demonstration project participants.

(e) PAYMENTS TO STATES; CARRYOVER OF UNUSED GRANT AMOUNTS.—

(1) PAYMENTS.—For each calendar quarter in a fiscal year during the period a State is awarded a grant under subsection (d), the Secretary shall pay to the State from its grant award for such fiscal year an amount equal to the lesser of—

(A) 100 percent of the amount of qualified expenditures made during such quarter; or

(B) the total amount remaining in such grant award for such fiscal year (taking into account the application of paragraph (2)).

(2) CARRYOVER OF UNUSED AMOUNTS.—Any portion of a State grant award for a fiscal year under this section remaining at the end of such fiscal year shall remain available to the State for the next four fiscal years, subject to paragraph (3).

(3) RE-AWARDING OF CERTAIN UNUSED AMOUNTS.—In the case of a State that the Secretary determines pursuant to subsection (d)(4) has failed to meet the conditions for continuation of a MFP demonstration project under this section in a succeeding year or years, the Secretary shall rescind the grant awards for such succeeding year or years, together with any unspent portion of an award for prior years, and shall add such amounts to the appropriation for the immediately succeeding fiscal year for grants under this section.

(4) PREVENTING DUPLICATION OF PAYMENT.—The payment under a MFP demonstration project with respect to qualified expenditures shall be in lieu of any payment with respect to such expenditures that could otherwise be paid under medicaid, including under section 1903(a) of the Social Security Act. Nothing in the previous sentence shall be construed as preventing the payment under medicaid for such expenditures in a grant year after amounts available to pay for such expenditures under the MFP demonstration project have been exhausted.

(f) QUALITY ASSURANCE AND IMPROVEMENT; TECHNICAL ASSISTANCE; OVERSIGHT.—

(1) IN GENERAL.—The Secretary, either directly or by grant or contract, shall provide for technical assistance to and oversight of States for purposes of upgrading quality assurance and quality improvement systems under medicaid home and community-based waivers, including—

(A) dissemination of information on promising practices;

(B) guidance on system design elements addressing the unique needs of participating beneficiaries;

(C) ongoing consultation on quality, including assistance in developing necessary tools, resources, and monitoring systems; and

(D) guidance on remedying programmatic and systemic problems.

(2) FUNDING.—From the amounts appropriated under subsection (h) for each of fiscal years 2006 through 2010, not more than $2,400,000 shall be available to the Secretary to carry out this subsection.

(g) RESEARCH AND EVALUATION.—

(1) IN GENERAL.—The Secretary, directly or through grant or contract, shall provide for research on and a national evaluation of the program under this section, including assistance to the Secretary in preparing the final report required under paragraph (2). The evaluation shall include an analysis of projected and actual savings related to the transition of individuals to a qualified residences in each State conducting an MFP demonstration project.

(2) FINAL REPORT.—The Secretary shall make a final report to the President and the Congress, not later than September 30, 2011, reflecting the evaluation described in paragraph (1) and providing findings and conclusions on the conduct and effectiveness of MFP demonstration projects.

(3) FUNDING.—From the amounts appropriated under subsection (h) for each of fiscal years 2006 through 2010, not more than $1,100,000 per year shall be available to the Secretary to carry out this subsection.

(h) APPROPRIATIONS.—

(1) IN GENERAL.—There are appropriated, from any funds in the Treasury not otherwise appropriated, for grants to carry out this section—

(A) $250,000,000 for fiscal year 2006;
(B) $300,000,000 for fiscal year 2007;
(C) $350,000,000 for fiscal year 2008;
(D) $400,000,000 for fiscal year 2009; and
(E) $450,000,000 for fiscal year 2010.

(2) AVAILABILITY.—Amounts made available under paragraph (1) for a fiscal year shall remain available for the awarding of grants to States by not later than September 30, 2010.

(i) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as requiring a State to agree to a capped allotment for expenditures for long-term care services under medicaid.

By Mr. GRASSLEY (for himself, Mr. BIDEN, Mr. MCCAIN, and Mr. STEVENS):

S. 529. A bill to designate a United States Anti-Doping Agency; to the Committee on Commerce, Science, and Transportation.

Mr. GRASSLEY. Mr. President, America is a nation of sports fans and sports players. In fact, it is hard to imagine something more influential in today's society than athletics. As children, we grow up emulating our favorite players in the backyard. Year in and year out we watch and hope that this is the year our favorite team makes it to the Super Bowl, the World Series, or the Big Dance. And every 4 years we watch in pride and tally the medals as American athletes compete in the Olympic games.

Every day millions of young people from across the country share the same dream of one day playing in the big leagues. But the reality is that most will never get the chance. In an average year, there are approximately 2 million high school boys playing football, baseball, and basketball. Another 68,000 men are playing the sports in college and 2,500 are participating at the major/professional level. In short, only 1 in 736, or 0.14 percent will ever play professional sports.

With that kind of competition, compounded by the lure of fame, endorsements and multi-million dollar contracts, an increasing number of young athletes are giving in to the seduction of performance enhancing drugs hoping to gain an edge on their peers. And what can you expect when some of the biggest superstars in sports have been found using steroids as a way to improve their performance. But, unlike better athletic gear, better nutrition, and better training, injecting and ingesting performance enhancing drugs as a shortcut to the big leagues jeopardizes the health and safety of young athletes and cheapens the legitimacy of competition.

In an effort to combat the use of performance enhancing drugs at the youth and amateur sports level, I am pleased to be joined by my colleagues Senator BIDEN, Senator MCCAIN and Senator STEVENS in introducing legislation to authorize continued Federal funding for the United States Anti-Doping Agency, USADA. As the anti-doping agency for the United States Olympic movement since 2000, USADA is responsible for ensuring that U.S. athletes participating in Olympic competition do not use performance enhancing drugs. Through its efforts, USADA is establishing a drug free standard for amateur athletic competition. This is achieved through testing, research, education, and adjudication.

USADA conducts nearly 6,500 random drug tests on athletes annually and has made anti-doping presentations to over 3,000 athletes and coaches last year alone. Over the last 2 years, USADA has worked to prevent U.S. Olympic athletes who have used banned substances from participating in the Olympic Games. But for the efforts of USADA, it is possible that more than a dozen elite U.S. athletes would have participated in the Athens Games last Summer and potentially embarrassed the U.S. once their drug use was exposed. USADA also works to fund research, including more than $3 million in grants for anti-doping research over the past 2 years, which is more than any other anti-doping agency in the world. The research and testing standards serve as models for other amateur athletic associations who wish to protect the health of their athletes and the fair competition of sport.

To date, the Federal Government has provided approximately 60 percent of USADA's operational budget, with the remainder of the agency's budget provided by the U.S. Olympic Committee and private funding sources. With continued support and proper funding, USADA could expand and improve upon the programs for anti-doping that already exist and continue to enhance the credibility of U.S. athletes in the eyes of the international sports community.

While the issue of anabolic steroids has received a great deal of national and international attention in the context of professional sports, the importance of stopping steroid abuse extends far beyond the track, baseball diamond, or football field. Instead our focus should be on the health and future of our children. I encourage my colleagues to join in support of this legislation to set the standard for free and fair competition.

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

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

S. 529

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

SECTION 1. DESIGNATION OF UNITED STATES ANTI-DOPING AGENCY.

(a) DEFINITIONS.—In this Act:

(1) UNITED STATES OLYMPIC COMMITTEE.—The term ''United States Olympic Committee'' means the organization established by the ''Ted Stevens Olympic and Amateur Sports Act'' (36 U.S.C. 220501 et seq.).

(2) AMATEUR ATHLETIC COMPETITION.—The term ''amateur athletic competition'' means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete (36 U.S.C. 220501(b)(2)).

(3) AMATEUR ATHLETE.—The term ''amateur athlete'' means an athlete who meets the eligibility standards established by the national governing body or paralympic sports organization for the sport in which the athlete competes (36 U.S.C. 22501(b)(1)).

(b) IN GENERAL.—The United States Anti-Doping Agency shall—

(1) serve as the independent anti-doping organization for the amateur athletic competitions recognized by the United States Olympic Committee;

(2) ensure that athletes participating in amateur athletic activities recognized by the United States Olympic Committee are prevented from using performance-enhancing drugs;

(3) implement anti-doping education, research, testing, and adjudication programs to prevent United States Amateur Athletes participating in any activity recognized by the United States Olympic Committee from using performance-enhancing drugs; and

(4) serve as the United States representative responsible for coordination with other anti-doping organizations coordinating amateur athletic competitions recognized by the United States Olympic Committee to ensure the integrity of athletic competition, the health of the athletes and the prevention of use of performance-enhancing drugs by United States amateur athletes.

SEC. 2. RECORDS, AUDIT, AND REPORT.

(a) RECORDS.—The United States Anti-Doping Agency shall keep correct and complete records of account.

(b) REPORT.—The United States Anti-Doping Agency shall submit an annual report to Congress which shall include—

(1) an audit conducted and submitted in accordance with section 10101 of title 36, United States Code; and

(2) a description of the activities of the agency.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the United States Anti-Doping Agency—

(1) for fiscal year 2006, $9,500,000;
(2) for fiscal year 2007, $9,900,000;
(3) for fiscal year 2008, $10,500,000;
(4) for fiscal year 2009, $10,800,000; and
(5) for fiscal year 2010, $11,100,000.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 69—EXPRESSING THE SENSE OF THE SENATE ABOUT THE ACTIONS OF RUSSIA REGARDING GEORGIA AND MOLDOVA

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 69

Whereas the Organization for Security and Cooperation in Europe (OSCE) evolved from the Conference on Security and Cooperation in Europe (CSCE), which was established in 1975, and the official change of its name from CSCE to OSCE became effective on January 1, 1995;

Whereas the OSCE is the largest regional security organization in the world with 55 participating States from Europe, Central Asia, and North America;

Whereas the 1975 Helsinki Final Act, the 1990 Charter of Paris, and the 1999 Charter for European Security adopted in Istanbul are the principle documents of OSCE, defining a steadily evolving and maturing set of

political commitments based on a broad understanding of security;

Whereas the OSCE is active in early warning, conflict prevention, crisis management, and post-conflict rehabilitation;

Whereas Russia and Georgia agreed at the 1999 OSCE Summit in Istanbul on specific steps regarding the withdrawal from Georgia of Russian forces, including military equipment limited by the Treaty on Conventional Armed Forces in Europe (CFE), and committed to resolve other key issues relating to the status and duration of the Russian military presence in Georgia;

Whereas Russia has completed some of the withdrawal from Georgia of military equipment limited by the CFE Treaty in excess of agreed levels, but has yet to agree with Georgia on the status of Russian forces at the Gudauata base and the duration of the Russian presence at the Akhalkalaki and Batumi bases;

Whereas Russia completed the withdrawal from Moldova of its declared military equipment limited by the CFE Treaty, but has yet to withdraw all its military forces from Moldova, as Russia committed to do at the 1999 OSCE Summit in Istanbul;

Whereas Russia made virtually no progress in 2004 toward its commitment to withdraw its military forces from Moldova;

Whereas Moldova has called for a genuinely international peacekeeping force to replace the Russian forces, and insists on the implementation by Russia of its commitment to withdraw its remaining military forces from Moldova;

Whereas Secretary of State Colin Powell stated at the December 2004 OSCE Ministerial in Sofia, Bulgaria, that ''Russia's commitments to withdraw its military forces from Moldova, and to agree with Georgia on the duration of the Russian military presence there, remain unfulfilled. A core principle of the CFE Treaty is host country agreement to the stationing of forces. The United States remains committed to moving ahead with ratification of the Adapted CFE Treaty, but we will only do so after all the Istanbul commitments on Georgia and Moldova have been met. And we stand ready to assist with reasonable costs associated with the implementation of those commitments.'';

Whereas since June 2004, Russia has called for the closure of the OSCE Border Monitoring Operation (BMO), the sole source of objective reporting on border crossings along the border between Georgia and with the Russian republics of Chechnya, Dagestan, and Ingushetia;

Whereas OSCE border monitors took up their mission in Georgia in May 2000, and prior to the failure to extend the mandate for the BMO in December 2004, OSCE border monitors, who are unarmed, were deployed at nine locations along that border;

Whereas the current rotation of the BMO includes 65 border monitors from 23 countries, including Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, the Czech Republic, Estonia, Finland, France, Hungary, Ireland, Lithuania, Macedonia, Moldova, Poland, Romania, Russia, Slovakia, Turkey, Ukraine, the United Kingdom, and the United States;

Whereas at the December 2004 OSCE Ministerial, Russia blocked renewal of the mandate for the BMO in Georgia;

Whereas Russia has stated that the BMO has accomplished nothing, but it has in fact accomplished a great deal, including observing 746 unarmed and 61 armed border crossings in 2004 and serving as a counterweight to inflammatory press reports;

Whereas in response to Russian complaints about the cost-effectiveness of the BMO, the OSCE agreed in December 2004 to cut the number of monitors and thereby reduce the cost of the BMO by almost half;

Whereas the BMO began shutting down on January 1, 2005;

Whereas the staff of the BMO is now dismantling facilities and is not performing its mission;

Whereas the shutdown of the BMO will become irreversible in the second half of March 2005 and is currently scheduled to be completed by May 2005;

Whereas the United States has reiterated its disappointment over the failure of the Permanent Council of the OSCE to reach consensus on renewing the mandate of the BMO, despite request of Georgia, the host country of the BMO, that the OSCE continue the border monitoring operation, and the consensus of all states but one to extend the mandate for the BMO; and

Whereas United States Ambassador to the United States Mission to the OSCE, Stephan M. Minikes, said in a statement to the OSCE Permanent Council in Vienna on January 19, 2005, that ''we believe that the closure of the BMO would remove a key source of peaceful relations and of objective reporting on events at the sensitive border and increase the likelihood of heightened Russia-Georgia tensions.'': Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States should—

(1) urge Russia to live up to its commitments at the 1999 Organization for Security and Cooperation in Europe (OSCE) Summit in Istanbul regarding Georgia and Moldova;

(2) in cooperation with its European allies, maintain strong diplomatic pressure to permit the OSCE Border Monitoring Operation (BMO) in Georgia to continue; and

(3) if the BMO ceases to exist, seek, in cooperation with its European allies, an international presence to monitor objectively border crossings along the border between Georgia and the Russian republics of Chechnya, Dagestan, and Ingushetia.

Mr. LUGAR. Mr. President, today I submit a resolution expressing the United States Senate's concern about Russia's actions in Georgia and Moldova.

At the Organization for Security & Cooperation in Europe's (OSCE) 1999 conference in Istanbul, Russia signed commitments to withdraw troops from both Georgia and Moldova. While Russia has fulfilled some aspects of those agreements, Russian troops and military bases remain in both countries. In my resolution, I urge Russia to live up to its 1999 Istanbul Commitments.

The resolution also addresses concerns about the OSCE's Border Monitoring Operation (BMO) in Georgia. The BMO, which took up its mission in Georgia in 2000, is the sole source of objective reporting on border crossings along Georgia's border with the Russian republics of Chechnya, Dagestan, and Ingushetia.

Since last June, Russia has called for the closure of the BMO in Georgia. In December, Russia blocked renewal of the mandate for the BMO, stating that it had accomplished nothing. I am disappointed that the OSCE was unable to renew the BMO's mandate. The BMO started shutting down in January and is expected to be fully closed by May.

The future of the BMO mission is uncertain. The United States, in cooperation with its European allies, should work to preserve the BMO in Georgia. But if the BMO is not revived, my resolution calls upon the United States and its European allies to seek an international presence to monitor objectively crossings along Georgia's border.

I am concerned that if Russia does not fulfill its commitments to withdraw troops from Georgia and Moldova, and if the Border Monitoring Operation in Georgia shuts down, the security situation in the region could further deteriorate. The United States must provide strong leadership on these issues.

I ask my colleagues to support this resolution.

SENATE RESOLUTION 70—COMMEMORATING THE 40TH ANNIVERSARY OF BLOODY SUNDAY

Mr. FRIST (for himself, Mr. CORZINE, Mr. MCCONNELL, Mr. KENNEDY, Mr. ALLEN, Mr. REID, and Mr. ALEXANDER) submitted the following resolution; which was considered and agreed to:

S. RES. 70

Whereas March 7, 2005, marks the 40th anniversary of Bloody Sunday, the day on which some 600 civil rights marchers were demonstrating for African American voting rights;

Whereas Jimmy Lee Jackson was killed February 26, 1965, 2 weeks prior to Bloody Sunday, at a civil rights demonstration while trying to protect his mother and grandfather from a law enforcement officer;

Whereas Congressman John Lewis and the late Hosea Williams led these marchers across the Edmund Pettus Bridge in Selma, Alabama where they were attacked with billy clubs and tear gas by State and local lawmen;

Whereas the circumstances leading to Selma's Bloody Sunday represented a set of grave injustices for African Americans which included—

(1) the murder of Herbert Lee of Liberty, Mississippi for attending voter education classes;

(2) the cutting off of Federal food relief by State authorities in 2 of the poorest counties in Mississippi in order to intimidate residents from registering to vote; and

(3) the loss of jobs or refusal of credit to registered black voters at local banks and stores;

Whereas during the march on Bloody Sunday Congressman Lewis was beaten unconscious, leaving him with a concussion and countless other injuries;

Whereas footage of the events on Bloody Sunday was broadcast on national television that night and burned its way into the Nation's conscience;

Whereas the courage, discipline, and sacrifice of these marchers caused the Nation to respond quickly and positively; and

Whereas the citizens of the United States must not only remember this historic event, but also commemorate its role in the creation of a more just society and appreciate the ways in which it has inspired other movements around the world: Now, therefore, be it

Resolved, That Congress commemorates the 40th anniversary of Bloody Sunday.

SENATE RESOLUTION 71—DESIGNATING THE WEEK BEGINNING MARCH 13, 2005 AS ''NATIONAL SAFE PLACE WEEK''

Mr. CRAIG (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mr. LIEBERMAN, Mr.

COCHRAN, Mr. JOHNSON, Mr. HATCH, Mr. KOHL, Ms. MURKOWSKI, Mrs. BOXER, Mr. INHOFE, Ms. LANDRIEU, Mr. FEINGOLD, Mr. INOUYE, Mrs. LINCOLN, and Ms. MIKULSKI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 71

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term ''safe places'' at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and nonprofit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 41 states and more than 14,000 locations have established Safe Place programs;

Whereas more than 75,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist;

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 13 through March 19, 2005 as ''National Safe Place Week'' and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 42. Mr. SCHUMER (for himself, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes.

SA 43. Mrs. CLINTON (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 44. Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON) proposed an amendment to the bill S. 256, supra.

SA 45. Mr. DORGAN (for himself, Mr. DURBIN, and Mr. BYRD) proposed an amendment to the bill S. 256, supra.

SA 46. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 47. Mr. SCHUMER (for himself, Mr. REID, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 48. Mr. SPECTER proposed an amendment to the bill S. 256, supra.

SA 49. Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. DAYTON) proposed an amendment to the bill S. 256, supra.

SA 50. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill S. 256, supra.

TEXT OF AMENDMENTS

SA 42. Mr. SCHUMER (for himself, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 205, between lines 16 and 17, insert the following:

SEC. 332. ASSET PROTECTION TRUSTS.

Section 548 of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

''(e) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the trust or to similar trusts within such 10-year period exceeds $125,000, to the extent that debtor has a beneficial interest in the trust and the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2). For purposes of this subsection, a fund or account of the kind specified in section 522(d)(12) is not an asset protection trust.''.

SA 43. Mrs. CLINTON (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SELF-SETTLED TRUSTS.

Section 541(c)(2) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

''unless—

''(A) the settler of the trust is also a trust beneficiary;

''(B) the trust is a domestic self-settled trust; or

''(C) the trust is a foreign self-settled trust.''.

SA 44. Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ____—FEDERAL MINIMUM WAGE

SEC. ___01. SHORT TITLE.

This Act may be cited as the ''Fair Minimum Wage Act of 2005''.

SEC. ___02. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

''(1) except as otherwise provided in this section, not less than—

''(A) $5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2005;

''(B) $6.55 an hour, beginning 12 months after that 60th day; and

''(C) $7.25 an hour, beginning 24 months after that 60th day;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

SEC. ___03. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Stnadards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) $3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by $0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

SA 45. Mr. DORGAN (for himself, Mr. DURBIN, and Mr. BYRD) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Add at the end the following:

TITLE XVI—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

SEC. 1601. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

SEC. 1602. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the ''Special Committee'').

SEC. 1603. PURPOSE AND DUTIES.

(a) PURPOSE.—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) DUTIES.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) EVIDENCE CONSIDERED.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

SEC. 1604. COMPOSITION OF SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) VACANCIES.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIRMAN AND RANKING MEMBER.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) QUORUM.—

(1) REPORTS AND RECOMMENDATIONS.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) TESTIMONY.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) OTHER BUSINESS.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

SEC. 1605. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF SENATE.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 1606. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) HEARINGS.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

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

(c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

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

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), 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 appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) MEETINGS.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

SEC. 1607. REPORTS.

(a) INITIAL REPORT.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 1603 not later than 270 days after the appointment of the Special Committee members.

(b) UPDATED REPORT.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) ADDITIONAL REPORTS.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 1603.

(e) DISPOSITION OF REPORTS.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. 1608. ADMINISTRATIVE PROVISIONS.

(a) STAFF.—

(1) IN GENERAL.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—

(A) IN GENERAL.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) MAJORITY STAFF.—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) MINORITY STAFF.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) NONDESIGNATED STAFF.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) COMPENSATION.—

(1) MAJORITY STAFF.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) MINORITY STAFF.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) NONDESIGNATED STAFF.—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the

Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

SEC. 1609. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

SEC. 1610. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

SA 46. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, after line 22, add the following:

SEC. 448. COMPENSATION OF BANKRUPTCY TRUSTEES.

Section 330(b)(2) of title 11, United States Code, is amended—

(1) by striking ''$15'' the first place it appears and inserting ''$55''; and

(2) by striking ''rendered.'' and all that follows through ''$15'' and inserting ''rendered, which''.

SA 47. Mr. SCHUMER (for himself, Mr. REID, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 16 and 17, insert the following:

SEC. 332. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (18), by striking ''or'' at the end;

(2) in paragraph (19), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (19) the following:

''(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

''(A) an action alleging the violation of any Federal, State, or local statute, including but not limited to a violation of section 247 or 248 of title 18, that results from the debtor's—

''(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

''(I) because that person provides, or has provided, lawful goods or services;

''(II) because that person is, or has been, obtaining lawful goods or services; or

''(III) to deter that person, any other person, or a class of persons, from obtaining or providing lawful goods or services; or

''(ii) damage to, or destruction of, property of a facility providing lawful goods or services; or

''(B) a violation of a court order or injunction that protects access to—

''(i) a facility that provides lawful goods or services; or

''(ii) the provision of lawful goods or services.

Nothing in paragraph (20) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.''.

SA 48. Mr. SPECTER proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 194, strike line 13 and all that follows through page 195, line 22, and insert the following:

SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) For a case commenced under—

''(A) chapter 7 of title 11, $200; and

''(B) chapter 13 of title 11, $150.''; and

(2) in paragraph (3), by striking ''$800'' and inserting ''$1000''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);'';

(2) in paragraph (2), by striking ''one-half'' and inserting ''75 percent''; and

(3) in paragraph (4), by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b)'' and all that follows through ''28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES' SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

SA 49. Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. DAYTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 499, strike line 3 and all that follows through page 500, line 2, and insert the following:

SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

(a) FEDERAL FRAUDULENT TRANSFER AMENDMENTS.—Section 548 of title 11, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking ''one year'' and inserting ''4 years'';

(B) in subparagraph (A), by striking ''or'' at the end;

(C) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(C) made an excess benefit transfer or incurred an excess benefit obligation to an insider, if the debtor—

''(i) was insolvent on the date on which the transfer was made or the obligation was incurred; or

''(ii) became insolvent as a result of the transfer or obligation.'';

(2) in subsection (b), by striking ''one year'' and inserting ''4 years''; and

(3) in subsection (d)(2)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(E) the terms 'excess benefit transfer' and 'excess benefit obligation' mean—

''(i) a transfer or obligation, as applicable, to an insider, general partner, or other affiliated person of the debtor in an amount that is not less than 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the calendar year in which the transfer is made or the obligation is incurred; or

''(ii) if no such similar transfers were made to, or obligations incurred for the benefit of, such nonmanagement employees during such calendar year, a transfer or obligation that is in an amount that is not less than 25 percent more than the amount of any similar transfer or obligation made to or incurred for the benefit of such insider, partner, or other affiliated person of the debtor during the calendar year before the year in which such transfer is made or obligation is incurred.''.

(b) FAIR TREATMENT OF EMPLOYEE BENEFITS.—

(1) DEFINITION OF CLAIM.—Section 101(5) of title 11, United States Code, is amended—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by inserting ''or'' after the semicolon; and

(C) by adding at the end the following:

''(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))), including an employee stock ownership plan, for the benefit of an individual who is not an insider, officer, or director of the debtor, if such securities were attributable to—

''(i) employer contributions by the debtor or an affiliate of the debtor other than elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon; and

''(ii) elective deferrals (and any earnings thereon) that are required to be invested in such securities under the terms of the plan or at the direction of a person other than the individual or any beneficiary, except that this subparagraph shall not apply to any such securities during any period during which the individual or any beneficiary has the right to direct the plan to divest such securities and to reinvest an equivalent amount in other investment options of the plan;''.

(2) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(B) by redesignating paragraphs (6) and (7), as redesignated by section 212, as paragraphs (7) and (8), respectively;

(C) in paragraph (7), as so redesignated, by striking ''Sixth'' and inserting ''Seventh'';

(D) in paragraph (8), as so redesignated, by striking ''Seventh'' and inserting ''Eighth'';

(E) in paragraph (9), as so redesignated, by striking ''Eighth'' and inserting ''Ninth'';

(F) in paragraph (10), as so redesignated, by striking ''Ninth'' and inserting ''Tenth''; and

(G) by striking paragraph (5), as redesignated by section 212, and inserting the following:

''(5) Fifth, allowed unsecured claims for contributions to an employee benefit plan—

''(A) arising from services rendered before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first; but only

''(B) for each such plan, to the extent of—

''(i) the number of employees covered by each such plan multiplied by $15,000; less

''(ii) the aggregate amount paid to such employees under paragraph (4), plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

''(6) Sixth, allowed claims with respect to rights or interests in equity securities of the debtor, or an affiliate of the debtor, that are held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) and section 101(5)(C) of this title), without regard to when services were rendered, and measured by the market value of the stock at the time the stock was contributed to, or purchased by, the plan.''.

SA 50. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 47, strike lines 12 through 14, and insert the following:

SEC. 202. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended—

(1) in subsection (g)(1), by adding at the end the following:

''(C)(i) Congress finds that—

''(I) the vermiculite ore mined and milled in Libby, Montana, was contaminated by high levels of asbestos, particularly tremolite asbestos;

''(II) the vermiculite mining and milling processes released thousands of pounds of asbestos-contaminated dust into the air around Libby, Montana, every day, exposing mine workers and Libby residents to high levels of asbestos over a prolonged period of time;

''(III) the responsible party has known for over 50 years that there are severe health risks associated with prolonged exposure to asbestos, including higher incidences of asbestos related disease such as asbestosis, lung cancer, and mesothelioma;

''(IV) the responsible party was aware of accumulating asbestos pollution in Libby, Montana, but failed to take any corrective action for decades, and once corrective action was taken, it was inadequate to protect workers and residents and asbestos-contaminated vermiculite dust continued to be released into the air in and around Libby, Montana, until the early 1990s when the vermiculite mining and milling process was finally halted;

''(V) current and former residents of Libby, Montana, and former vermiculite mine workers from the Libby mine suffer from asbestos related diseases at a rate 40 to 60 times the national average, and they suffer from the rare and deadly asbestos-caused cancer, mesothelioma, at a rate 100 times the national average;

''(VI) the State of Montana and the town of Libby, Montana, face an immediate and severe health care crisis because—

''(aa) many sick current and former residents and workers who have been diagnosed with asbestos-related exposure or disease cannot access private health insurance;

''(bb) the costs to the community and State government related to providing health coverage for uninsured sick residents and former mine workers are creating significant pressures on the State's medicaid program and threaten the viability of other community businesses;

''(cc) asbestos-related disease can have a long latency period; and

''(dd) the only significant responsible party available to compensate sick residents and workers has filed for bankruptcy protection; and

''(VII) the responsible party should recognize that it has a responsibility to work in partnership with the State of Montana, the town of Libby, Montana, and appropriate health care organizations to address escalating health care costs caused by decades of asbestos pollution in Libby, Montana.

''(ii) In this subparagraph—

''(I) the term 'asbestos related disease or illness' means a malignant or non-malignant respiratory disease or illness related to tremolite asbestos exposure;

''(II) the term 'eligible medical expense' means an expense related to services for the diagnosis or treatment of an asbestos-related disease or illness, including expenses incurred for hospitalization, prescription drugs, outpatient services, home oxygen, respiratory therapy, nursing visits, or diagnostic evaluations;

''(III) the term 'responsible party' means a corporation—

''(aa) that has engaged in mining vermiculite that was contaminated by tremolite asbestos;

''(bb) whose officers or directors have been indicted for knowingly releasing into the ambient air a hazardous air pollutant, namely asbestos, and knowingly endangering the residents of Libby, Montana and the surrounding communities; and

''(cc) for which the Department of Justice has intervened in a bankruptcy proceeding; and

''(IV) the term 'Trust Fund' means the health care trust fund established pursuant to clause (iii).

''(iii) A court may not enter an order confirming a plan of reorganization under chapter 11 involving a responsible party or issue an injunction in connection with such order unless the responsible party—

''(I) has established a health care trust fund for the benefit of individuals suffering from an asbestos related disease or illness; and

''(II) has deposited not less than $250,000,000 into the Trust Fund.

''(iv) Notwithstanding any other provision of law, any payment received by the United States for recovery of costs associated with the actions to address asbestos contamination in Libby, Montana, as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall be deposited into the Trust Fund.

''(v) An individual shall be eligible for medical benefit payments, from the Trust Fund if the individual—

''(I) has an asbestos related disease or illness;

''(II) has an eligible medical expense; and

''(III)(aa) was a worker at the vermiculite mining and milling facility in Libby, Montana; or

''(bb) lived, worked, or played in Libby, Montana for at least 6 consecutive months before December 31, 2004.''; and

(2) by adding at the end the following:

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that S. 476, to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act; and S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992, have been added to the agenda for the hearing previously scheduled before the Subcommittee on Public Lands and Forests, on Tuesday, March 8, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2005, at 9:30 a.m., in open session to receive testimony on the Defense Authorization Request for fiscal year 2006 and the Future Years Defense Program.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 3, at 10 a.m., to receive testimony on the President's proposed budget for fiscal year 2006 for the Department of Energy.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, March 3, 2005, at 3 p.m., to conduct a hearing regarding S. 131, Clear Skies Act of 2005.

The hearing will be held in SD 406.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 3, 2005, at 9:30 a.m., to hold a business meeting.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to hold a hearing during the session of the Senate on Thursday, March 3, 2005 at 10 a.m. in SD–106.

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

COMMITTEE ON THE JUDICIARY

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee the Judiciary be authorized to meet to conduct a hearing on Thursday, March 3, 2005 at 2 p.m. on ''Judicial Nominations.'' The hearing will take place in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Terrence W. Boyle, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

Panel III: James C. Dever III, of North Carolina, to be United States District Judge for the Eastern District of North Carolina; and Robert J. Conrad, Jr., of North Carolina, to be United States District Judge for the Western District of North Carolina.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 3, 2005 at 2:30 p.m. to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Thursday, March 3, 2005 at 2:30 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

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

THE 40TH ANNIVERSARY OF BLOODY SUNDAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 70, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 70) commemorating the 40th anniversary of Bloody Sunday.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 70) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 70

Whereas March 7, 2005, marks the 40th anniversary of Bloody Sunday, the day on which some 600 civil rights marchers were demonstrating for African American voting rights;

Whereas Jimmy Lee Jackson was killed February 26, 1965, 2 weeks prior to Bloody Sunday, at a civil rights demonstration while trying to protect his mother and grandfather from a law enforcement officer;

Whereas Congressman John Lewis and the late Hosea Williams led these marchers across the Edmund Pettus Bridge in Selma, Alabama where they were attacked with billy clubs and tear gas by State and local lawmen;

Whereas the circumstances leading to Selma's Bloody Sunday represented a set of grave injustices for African Americans which included—

(1) the murder of Herbert Lee of Liberty, Mississippi for attending voter education classes;

(2) the cutting off of Federal food relief by State authorities in 2 of the poorest counties in Mississippi in order to intimidate residents from registering to vote; and

(3) the loss of jobs or refusal of credit to registered black voters at local banks and stores;

Whereas during the march on Bloody Sunday Congressman Lewis was beaten unconscious, leaving him with a concussion and countless other injuries;

Whereas footage of the events on Bloody Sunday was broadcast on national television that night and burned its way into the Nation's conscience;

Whereas the courage, discipline, and sacrifice of these marchers caused the Nation to respond quickly and positively; and

Whereas the citizens of the United States must not only remember this historic event, but also commemorate its role in the creation of a more just society and appreciate the ways in which it has inspired other movements around the world: Now, therefore, be it

Resolved, That Congress commemorates the 40th anniversary of Bloody Sunday.

ORDERS FOR FRIDAY, MARCH 4, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, the Senate adjourn until 9:30 a.m. on Friday, March 4. I further ask unanimous consent following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 256, the Bankruptcy Reform Act.

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

Mr. FRIST. Mr. President, tomorrow the Senate will continue consideration of the bankruptcy bill.

We have had a very, very productive week considering a number of amendments and had a number of rollcall votes. In addition, we have reached an agreement, which I will be commenting on shortly with the unanimous consent request, that will allow us to vote on both the Kennedy and Santorum minimum wage amendments Monday afternoon. Those two votes will occur at 5:30, and Senators should plan to be here for those important votes.

We will be in session tomorrow, as I mentioned. There will be no rollcall votes during tomorrow's session. Senators who wish to speak on the bill are encouraged to come to the floor tomorrow morning.

Mr. REID. Mr. President, we have had relatively short days because of some things which happened in the evening. We have done pretty well this week. I think we have close to 15 amendments total. The bankruptcy debate was interrupted as a result of legislation that Senator Nickles and I produced some time ago to take a look at regulations promulgated by the government only be used three times but was used in the mad cow situation. That took up a big chunk of time today.

I think we have done quite well. There are a number of Senators coming here tomorrow to offer amendments on bankruptcy.

It is the contemplation, after having conferred with the Republican leader, that we are going to try to resolve a time to finish the clinic violence amendment. We are trying to do that early next week. I certainly hope we can do that as early as we can.

This week we have really been legislators. It has been very nice.

Mr. FRIST. Mr. President, I concur with the Democratic leader. It has been a productive week, and we are governing with meaningful solutions, and we look forward to completing this bill next week.

Mr. President, I ask unanimous consent, in addition to the Kennedy amendment regarding minimum wage, that it be in order for Senator SANTORUM to offer a first-degree amendment related to the minimum wage issue; provided further that on Monday, March 7, there be 3 hours of debate equally divided between Senators Santorum and Kennedy, or their designees; provided further that at 5:30 on Monday the Senate proceed to a vote on the Kennedy amendment to be followed by a vote on the Santorum amendment with no amendments in order to either amendment, and no further intervening action or debate.

I further ask unanimous consent that if either amendment does not receive 60 votes in the affirmative, then Senate action on the amendment be vitiated and the amendment be immediately withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:15 p.m., adjourned until Friday, March 4, 2005, at 9:30 a.m.