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Senate

(Legislative day of Wednesday, September 17, 2008)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by CDR Maurice Kaprow, Command Chaplain, Center for Information Dominance, Pensacola, FL.

The guest Chaplain offered the following prayer:

Eternal and loving God, this morning, in this august Chamber of the Senate, we ask humbly for Your guidance and grace. As these men and women, duly empowered by their constituents, meet to deliberate the important issues facing our Nation and our world, we turn to You to help them complete their work. Grant them wisdom to fully understand the issues before them; grant them insight to truly know the implications of their actions; grant them confidence to feel that what they are doing is right; and grant them the courage to make those difficult decisions. Be with them today and every day as they fully ponder the affairs of state.

While we are here in the comfort and safety of this magnificent and historic Capitol Building, our thoughts turn to those brave Americans—young men and women from every part of our country—who volunteer to serve in our Armed Forces. They are soldiers, marines, sailors, airmen, and coastguardsmen. Many of these brave souls are deployed far from home, in harm's way, as they do their part in maintaining freedom and our American way of life. Keep them safe and secure until they return to these shores ensconced into the waiting arms of their families and loved ones.

In Your Holy Name, I pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 25, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following the remarks of the leaders, if there be any, the Senate will be in a period of morning business, with Senators permitted to speak for up to 10 minutes each. We will be in morning business until we receive the consolidated appropriations bill from the House. When we receive the message from the House of Representatives, we will turn to its consideration.

Meanwhile, we will continue to work with the minority on an agreement to consider the national defense authorization legislation. If we are able to reach an agreement on DOD authorization, we could turn to its consideration immediately.

For the information of all Members, we will have shortly, as I have indicated, the continuing resolution. It passed the House overwhelmingly yesterday, some 370 or 380 votes. We will receive that legislation and we will file cloture on it today for a Saturday cloture vote. Of course, with consent, we can do about anything around here. We can move the vote up and do it today or tomorrow. It is up to the membership. So that is one possibility.

We have the financial crisis situation. Significant progress has been made. At 10 o'clock, there is a meeting that will take place with the staffs of Democrats and Republicans. They have already started writing a proposed piece of legislation. As I have indicated, significant progress has been made. Hopefully, we can work something out on that legislation in the near future.

There are a number of other issues we are trying to move forward. There is some excellent legislation we have received from the House dealing with Amtrak and train safety. We hope we can work out a way to do that legislation.

Anyway, we will keep Senators closely advised. At this stage, it seems very clear, unless something happens, we will have to be in session on Saturday for a Saturday cloture vote.

RESERVATION OF LEADER TIME

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

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

MORNING BUSINESS

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

Mr. REID. Mr. President, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent to be recognized for up to 10 minutes as in morning business.

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

HONORING OUR ARMED FORCES

Mr. INHOFE. Mr. President, I rise today to pay tribute to three of Oklahoma's finest heroes.

SGT Daniel Eshbaugh, of Norman, OK.

CWO Brady Rudolf, of Oklahoma City, OK.

And CPL Michael Thompson, of Harrah, OK.

They were among the soldiers who were killed on September 17, 2008 in Tallil, Iraq, when their CH–47 Chinook helicopter crashed while en route from Kuwait to Balad Air Base north of Baghdad.

SGT Eshbaugh, CWO Rudolf and CPL Thompson were members of Detachment 1, Company B, 2nd Battalion, 149th Aviation, from Lexington, OK.

The unit, which is made up of approximately 200 Texas and Oklahoma Guard members, was mobilized in June and left for duty in Iraq in late August.

All three were on their second tour in Iraq.

SGT DANIEL ESHBAUGH

SGT Dan Eshbaugh served as a flight engineer in the 149th.

He enlisted in the Air Force in 1982 and served for 10 years.

Dan joined the Oklahoma Army National Guard in 1998 and served until 2000.

In 2002, he reenlisted in the Oklahoma Army National Guard and was mobilized in 2008.

Dan's first deployment was in 2003 in support of Operation Iraqi Freedom, spending 4 months in theater.

Dan leaves behind his wife Rachel and their two sons, Bryan and Jordan.

He is also survived by his two daughters, Jessica and Ashley, and his mother, Bernadine.

Yesterday I talked with Dan's wife Rachel and she talked about Dan's love for the Army, that it was his ''whole life''.

In addition to his deep love and commitment to our country, he also loved to hunt and loved sports.

I read through some of the comments written on Dan's on-line guest books.

Many people wrote about Dan's sense of humor, his ability to tell good stories, and his love for his family.

It was obvious that Dan enjoyed spending time with his entire family together, at reunions, over meals, and watching sports.

I want to share excerpts from a few.

Danny . . . My Big Brother . . . Thank you for trying to make peace in this insane world, so that our children can have a safe place to someday raise their children. Ian and Arden will always remember their Uncle Danny. I find comfort in knowing that your spirit is together with Grandpa and Dad. I know they have embraced you. The strength of three generations of Eshbaugh's looking over us will be the strength that we all hold in our hearts. I will love you forever . . . your little sister Kimberlee.''

There are so many memories I have to cherish of my cousin ''Danny''. He was so much fun to see when our families would get together on visits to Grandma and Grampa's house when we were young. . . . I will cherish these and all the memories that I have. I am so proud to be your cousin.

We are proud of Dan's dedication and loyalty to protecting this country. God grant us the wisdom to be worthy of his ultimate sacrifice. Dan, may you, my brother Dan and my Dad find your ''mansion'' up there overlooking a fully stocked lake in that happy hunting ground.''

And from Dan's friends and the soldiers he served with the entire family, nieces, nephews, and cousins, they all said that Dan, or ''Danny'' as his family called him, was an inspiration for all to follow and had a positive impact on all who met him.

CHIEF WARRANT OFFICER BRADY RUDOLF

CWO Brady Rudolf served as a CH–47 ''Chinook'' pilot in the 149th and had been in the National Guard for over 20 years.

Brady was also a pharmacist when not on duty.

In 2003, he deployed to Iraq in support of Operation Iraqi Freedom and spent 4 months in theater.

Brady is survived by his wife of 13 years, Jennifer, and their three sons Braden, Ty, and Nate.

Brady is also survived by his mother Nathalia and brother Dustin.

Last night, I spoke to Jennifer, Brady's wife, and we talked about Brady's love of flying, something, as a pilot myself, I can fully understand.

Jennifer also talked about his strong faith and commitment to Jesus.

Dustin Rudolf, Brady's brother, said Brady was a dedicated father, husband and soldier who comes from a long line of servicemen in the Rudolf family.

''He was a great father, a great husband and just an all-around great human being. The sacrifice he gave for our freedom and what we live for here in America is an awesome thing and he knew it and he lived it.''

Dustin also said that his brother was voted class clown by his graduating class.

''He was a jokester but he could be serious too when it mattered,'' Dustin said.

''He was a conscientious pilot who liked to take care of people. He would give the shirt off his back for anyone.''

The following is from Brady's online journal:

One of his co-workers from the pharmacy wrote,

I worked with Brady for several years at the Pharmacy in Newscastle. Of the many things I could say about him, these seem the most important: He spoke with deep adoration and love for his family and his faith in the Lord. He was always proud of the smallest accomplishments and milestones his boys achieved. . . . Thank you for allowing me to share in a small part of his life. Because of Brady's love and faith in the Lord, I was able to find my way back to my faith. Thank you, Brady, for your service to our beloved country.

From a fellow classmate in pharmacy school:

We were in pharmacy school with Brady. He was an excellent man of values and had a great love for his family. Brady was an encouragement to be around.

And finally a friend wrote:

I remember Brady as a blonde-headed, bright eyed, fun-loving All-American boy. His smile would light the room. It is apparent that he grew up to be a man of such good character-an All-American Hero! . . . May Brady's legacy of service to others be carried on by each of us. Your family is in my thoughts and prayers.

CPL MICHAEL THOMPSON

CPL Michael Thompson served as a door gunner in the 149th.

Michael graduated Kingston High School in 2003 and then enlisted in the Army in 2004.

He left active-duty service and joined the Oklahoma Army National Guard in 2007.

Michael previously deployed to Iraq in 2005 and spent 11 months in theater.

Michael is survived by his father Kory Thompson of Harrah, OK, his mother Angela Perry, his stepfather Richard Perry, and sister Jami.

Michael also leaves behind his fiancee, KC Colvin.

When I talked with Michael's mom Angela last night, she spoke about how her son's love for people and how he was loved by everyone.

He never met a stranger he did not like and who did not like him; even the mailman loved Mikey, Mikey was the name he is affectionately known by his many friends and family.

Mikey was full of personality and he loved to hunt and fish.

Family members said that he volunteered to go to Iraq because the Army needed a qualified open-door machine gunner.

''He was qualified for machine guns from his active duty in the military before this,'' said Richard Perry, Michael's stepfather. ''He volunteered to go to help out.''

CPT Travis Ward, an Oklahoma Guard helicopter pilot, said Michael transferred into the Oklahoma Army National Guard at the first of the year after serving in the infantry.

''He made two drill weekends with us and on the second one, he heard the rumor that the deploying units were looking for people to be door gunners.

''As soon as he heard that, Michael came straight to me and asked if he

could volunteer. The very next weekend, he started with that unit. He was a very excited young man and extremely enthusiastic.''

Here are some comments from Michael's online journal:

Job well done soldier! You were a true Patriot and warrior keeping America strong . . . You are in Post everlasting now. You will NEVER be forgotten. To the family I can only say your son/husband/friend will forever be a hero. I salute you . . .

John 15:13 says, ''Greater love hath no man than this—that a man lay down his life for his friends.'' I feel so blessed to have known Michael and even more so that he died protecting our way of life as we know it. You will be missed by all who knew you.

Mikey never met a stranger. His personality and love for life was contagious! You will be greatly missed, and I feel lucky to have met such a loved and loving person.

I am incredibly proud of these three men, who gave themselves fully to their families and their commitment to protecting our country.

They loved being soldiers and made the ultimate sacrifice for our freedom.

Dan, Brady and Mikey were men of strong character, full of personality and sense of humor, and courage in the face of war.

I want to salute each of you. You are our heroes. You are all incredible men, patriots, fathers, husbands, sons, grandsons, uncles, and friends. You are what this country is all about, we will never forget you.

This country will never be able to adequately repay you, or your families, for your service and the sacrifice you have made to this nation.

I am honored to pay tribute to you today and know that our thoughts and prayers are with you and your families.

And to the loved ones, it is my understanding that all three of these heroes knew Jesus and knew the Lord well. I would say to you this: this is a wink of time that we are here. This is not goodbye to Dan, Brady, Mikey; it is: We will see you later.

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

DC GUN RIGHTS

Mrs. HUTCHISON. Mr. President, I rise to talk about a very important issue, and that is gun rights, the second amendment gun rights for our country.

As we are dealing with the financial stabilization program which is being negotiated, the continuing resolution, which will come over from the House shortly, we do have time to talk about some of the other issues that are so important for our country.

I think the second amendment rights of people who live in the District of Columbia are very important. There was a Supreme Court case, a landmark ruling, that was made by the Supreme Court of the United States a couple months ago that said: The District of Columbia gun ban was unconstitutional.

Many of us in Congress helped with an amicus brief, a brief to the Court signed by a majority of the Members of the House and the Senate, that asked that the Court overturn this DC gun ban because it was the most restrictive outright gun ban in all of America, and it clearly violated the rights of the people of the District of Columbia.

The Court agreed. Now many of us who were hoping to pursue this right for the people of the District of Columbia, which is under the auspices of Congress, waited to see what the District City Council would do. We hoped they would do the right thing and adhere to the Supreme Court ruling, which affirmed that their ban on the ownership of handguns was unconstitutional.

The District then came out with an almost incomprehensible ordinance that does continue to make it very difficult for someone to exercise their constitutional right to own a gun.

The District allows registration of pistols for use in self-defense within the applicant's home. So it does not allow the ownership of a handgun in a person's business, to have self-defense in their business, but it does allow it in the home.

But then the ordinance goes on to say that it is a policy of the District of Columbia that firearms should be stored unloaded and either disassembled or locked, which is the complete opposite result of the original ruling.

I do not think anyone in America would consider an unlocked, unloaded gun to be potentially used for self-defense if someone is entering their home illegally.

The firearm registration requirements are onerous. As a condition for registration, the District requires applicants to pay separate, unlimited fees for filing their registration, applicants have their mandatory fingerprints processed, and have their handguns run through a ballistic imaging process.

What we are trying to do now is say you would have the ability to own a handgun for your personal use in your home for self-defense for you and your family. We also want to authorize DC residents to buy handguns from licensed dealers in Maryland or Virginia because, of course, there is only one gun dealer in the District of Columbia because there has been such a shortage of guns that a gun owner would sell because you could not have one.

Because there is a current Federal law against interstate handgun sales, only Congress can authorize this. So the only way a person will have the ability to buy from a licensed dealer—and a licensed dealer must pass a record check by the National Instant Criminal Background Check System; all of that would be enforced, but we do need to have the ability for someone to have a reasonable place to go if they are going to buy a gun to protect themselves and their family.

The bottom line is, as soon as we have representation on the floor by both parties, I intend to ask unanimous consent that we proceed to consideration of the bill. Now, the bill is H.R. 6842. It passed the House overwhelmingly last week. We want to take up that bill. In fact, I have a letter to Senator REID signed by 47 Members of the Senate, and I am asking that be submitted for the RECORD.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, September 19, 2008.

Hon. HARRY REID,
Majority Leader, U.S Senate,
Washington, DC.

DEAR LEADER REID: On June 26, 2008. the Supreme Court issued a landmark ruling affirming the Second Amendment right to bear arms as an individual and constitutionally protected right. In District of Columbia v. Heller. the court affirmed that the District of Columbia's ban on ownership of handguns was an unconstitutional restriction on that right. The majority held ''that the District's ban on handgun possession in the home violates the Second Amendment, as does its prohibition against rendering any lawful firearm in the home operable for the purpose of immediate self-defense.''

For more than thirty years. the District of Columbia has subjected residents to the most prohibitive gun control laws of any city in the nation, requiring rifles and shotguns to he registered, stored unloaded, and either locked or disassembled. Despite the Court's ruling in June, the District of Columbia city council has continued to exact onerous and unconstitutional firearm regulations on law-abiding residents.

This week, the House of Representatives passed H.R. 6842, the National Capital Security and Safety Act. This bipartisan bill was overwhelmingly approved with a vote 266–152. We ask you to ensure that D.C. residents do not have to wait any longer to realize their constitutional rights by allowing the full Senate to consider H.R. 6842 before the 110th Congress concludes.

Sincerely,

Kay Bailey Hutchison; Jon Tester; Saxby Chambliss; Judd Gregg; Richard Burr, John Ensign; Johnny Isakson; John E. Sununu; John McCain; Lisa Murkowski; Jim DeMint; ———; Kit Bond; John Cornyn; Mike Enzi; Ted Stevens; Orrin Hatch; Chuck Grassley; Max Baucus; Larry E. Craig; Mel Martinez; Thad Cochran; Roger Wicker; Sam Brownback; Lindsey Graham; Pat Roberts; John Thune; Richard Shelby; Mike Crapo; David Vitter; John Barrasso; Elizabeth Dole; George V. Voinovich; Pete V. Domenici; Jim Inhofe; Wayne Allard; Norm Coleman; E. Benjamin Nelson; Tim Johnson; Bob Corker; Lamar Alexander; Jon Kyl; Gordon H. Smith; Olympia Snowe; Susan M. Collins; Mary Landrieu, Mitch McConnell.

Mrs. HUTCHISON. Forty-seven of our Members have asked the majority leader to allow this bill to be taken up so we can pass it and send it to the President and assure that the people of the District of Columbia have the same second amendment right that is allowed to every other person in our country. So I would ask whether the Chair is able to speak for the majority

or if you prefer I wait for another person to come to the floor. I can do that or I can do it now.

I will withhold. I ask unanimous consent that as soon as the leader is finished, I be recognized again to make my motion.

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

The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I thank the Senator from Texas.

HONORING OUR ARMED FORCES

CAPTAIN ERIC D. TERHUNE

Mr. McCONNELL. Mr. President, I rise to pay tribute to one of our bravest warriors who gave his life to defend us. U.S. Marine Corps CPT Eric D. Terhune of Lexington, KY, was conducting a security patrol in the Farah Province of Afghanistan on June 19, 2008, when he was killed by enemy small-arms fire. He was 34 years old.

For his heroism in service, Captain Terhune received several awards, medals and decorations, including the Strike/Flight Air Medal, the Marine Corps Good Conduct Medal, two National Defense Service Medals and the Armed Forces Service Medal.

Those who knew Captain Terhune would describe him as a man committed to serving his country and proud to wear the uniform. In fact, as his uncle, David Terhune, puts it, since Eric was born in a Naval hospital in Quantico, VA, where his father was on active duty, ''Eric was born a Marine.''

Eric was also committed to his faith. When family members expressed worry about his dangerous job, he told them, ''If I live, it's wonderful. But if I die, it's absent from the body and present with the Lord.''

Eric was raised in Lexington, attended Tates Creek Presbyteria Church and studied at Wheaton Academy in Wheaton, IL. As a kid he was active in everything from Cub Scouting and Boy Scouting to soccer and Little League baseball.

Eric was also a competitive swimmer who loved to hunt and scuba dive. As a marine, he would dive to collect shells and sharks' teeth in the many places the Corps sent him.

Once on a sail boat trip with his family, when it was Eric's turn to do the dishes after dinner, he came up with a creative cleaning method—he threw them in the ocean, put on his scuba gear, and retrieved the dishes from the water.

Upon high school graduation, Eric enlisted in the same branch his father and grandfather had once served in, the Marine Corps. After 4 years as a noncommissioned officer and a reconnaissance sharpshooter, Eric dreamt of becoming a Naval aviator like his dad.

This required a college degree. So with some encouragement from his grandparents, Daniel and Joy Terhune, he used his GI bill benefits to enroll at Morehead State University.

At Morehead, Eric made the honor roll and competed on the varsity rifle team. ''There [was] no doubt . . . when Eric turned in his targets from a rifle match, who pulled the trigger,'' his uncle David says. ''He was an expert sharpshooter.''

Upon graduation, Eric received his commission as a second lieutenant in the Marine Corps. He then spent a year at Naval Air Station Pensacola and earned his coveted wings of gold.

Eric flew the CH–53 Sea Stallion helicopter during his first tour in Iraq. His friends in the Corps nicknamed him ''D-Ring,'' after the D-ring located overhead in the helicopters he flew to be pulled in case of emergency.

His fellow marines spoke highly of Eric. His commanding officer, LTC Richard D. Hall, says,

> ''D-Ring,'' as we all affectionately called him, and [as] was his aviator's call-sign, was a Marine that everyone liked; and I mean everybody. He had a gracious and kind personality that was truly infectious; so much so, that I too became infected by his wonderful persona.

MAJ Darby Wiler was Eric's staff platoon commander at The Basic School, where newly commissioned marine officers are sent for weapons, tactical, and leadership training. Major Wiler says, ''Eric's work ethic was unparalleled amongst his peers.

''Even in the midst of the most unpleasant circumstances that The Basic School had to offer, he was always upbeat, motivated, and ready to go,'' the major adds.

Eric volunteered for a second tour of Iraq, which he completed last November. When his ship, the U.S.S. *Denver*, arrived in Pearl Harbor, he was allowed to give one family member the honor of joining him and his crew for the final leg of the voyage home to San Diego. Eric chose his grandfather.

''That trip halfway across the Pacific Ocean together, eating together in the ward room, watching ships operations from the bridge, showing his grandfather how to shoot an M–16, how to shoot a .50 Caliber machine gun . . . this was the greatest of bonding experiences for both of them,'' says Eric's uncle David.

''Eric has told me many times what a blast it was to share those days with Dad. For Dad, it was an indescribable joy to see his grandson performing as a Marine and standing tall as a Christian officer.''

After his two tours in Iraq, Eric expected to return to training to requalify as a helicopter pilot. But then he learned the Marine Corps was short of forward air controllers—an important position, responsible for directing other aircraft in close air support and requiring substantial experience.

''He had a lot of conversations with his dad—'What do you think about this Afghanistan thing?' '' David recalls. ''His dad laid out the pros and cons, and Eric said, 'Look, if you're in the Marine Corps, you don't duck the fight.'

Eric volunteered and was deployed to Afghanistan in April of this year with the 2nd Battalion, 7th Marine Regiment, 1st Marine Division, I Marine Expeditionary Force, based out of Twentynine Palms, CA.

''We have heard numerous reports of him volunteering to take the place of some of his friends who had a wife and children,'' David says.

Eric brought the same work ethic he carried with him throughout his career to Afghanistan. CPT Carlos R. Cuevas who served alongside Eric in Afghanistan, remembers when he first met Eric.

''I believe the first thing he asked me was, 'Hey, Captain Cuevas, can you tell me where the armory is and who I need to talk to get my weapon?' '' the captain remembers. ''As a fellow captain and Marine . . . I can tell you his professionalism and enthusiasm for his job was readily apparent,'' the captain says.

''He loved being a pilot, a Marine, and most of all serving alongside his fellow Marines.''

Eric couldn't write or call his family often from Afghanistan, but they were always happy when he did. On June 16 he sent what would be his final e-mail.

''He wrote and addressed each of his cousins by name, encouraging them, affirming them, giving advice to them,'' says David. ''And [he] expressed his longing to join us at our next family gathering.''

Three days after that e-mail, Mr. President, Eric was killed. And although nothing we say here today can alleviate the pain of his family, I know my colleagues join me in expressing our deepest sympathies to them for their tragic loss.

We are thinking of Eric's father and stepmother Paul and Carleen Terhune; his grandparents Daniel and Joy Terhune; his uncle and aunt David and Dotti Terhune; many beloved family members, including Dr. and Mrs. Oliver Jeromin, Dr. and Mrs. Richard Colquitt, David W. Terhune, Jr., Rebecca Joy Terhune, Bea Hansgen, and many others.

I will leave the final words to Eric's uncle David, who describes his nephew this way. Eric ''was, in the best sense of the word, an officer and a gentleman and a patriot,'' David says. ''I always admired his strength and his power, but he was also gentle at the same time.''

Mr. President, this U.S. Senate honors CPT Eric D. Terhune as an officer, a gentleman, and a patriot. We are grateful for his years of service to our Nation and his great sacrifice. And we send our profound thanks to the Terhune family for giving their country this heroic marine. It is only by men such as he that every American can stand tall and free.

STAFF SERGEANT CHRISTOPHER N. HAMLIN

Mr. President, I rise to also honor another fallen member of our Armed Forces. This Nation is honored to have the finest arsenal of freedom in the

world in our Armed Forces. Today I pay tribute to one of those brave warriors, SSG Christopher N. Hamlin of London, KY.

On May 4, 2007, Staff Sergeant Hamlin was tragically killed after an improvised explosive device detonated near his vehicle as he was conducting combat operations in Baghdad. A soldier since 2001, who had deployed to Afghanistan, Kosovo, and on multiple tours to Iraq, he was 24 years old.

For his heroism during service, Staff Sergeant Hamlin received several awards, medals, and decorations, including the National Defense Service Medal, the Army Achievement Medal, the Army Commendation Medal, the Purple Heart, and the Bronze Star Medal.

Chris packed a lot of life into his too short 24 years. Friends and family members remember his dedication to the uniform, his love of eating crab legs, and his enjoyment watching NASCAR. He was also a writer and sometimes a poet, who would send his work to friends back home from Iraq.

''Make every day count!'' Chris once wrote. ''Appreciate every moment and take from it everything that you possibly can, for you may never be able to experience it again.''

Those words, and others, from Chris's pen were remembered at his funeral service in London.

''He never quit at anything,'' says his mother, Autumn Hamlin. ''He said that he wanted to travel the world and not watch it on television. He wanted to be right there.''

Chris grew up in Laurel County, KY, and liked hunting and fishing. At North Laurel High School, he was on the basketball, cross country and track teams and active in Junior ROTC, and he showed his eagerness to help others at a young age.

''He'd be hanging around, waiting for basketball practice to start and he'd help the janitor clean the school,'' says CDR Kenneth Vanourney, his ROTC instructor.

''In basic training, he did a lot to help the other soldiers complete their training,'' adds Chris's stepfather, Otis Johnson. ''He was already physically fit and he would finish the course early and go back to encourage the others to complete [it].''

Chris graduated from high school in 2001 and enlisted in the Army soon after, heading to Fort Benning, GA, for basic training. Eventually, Chris trained as a sniper and took first place in his training class while earning a near-perfect shooting score.

When Chris's enlistment was up, he reenlisted. The excellence he brought to his job was rewarded as he rapidly advanced in rank.

''In my 30 years in the Army, there have only been a handful of infantrymen reach noncommissioned officer in five years or less,'' says BG Joe Orr, who spoke at Chris's funeral service.

The Brigadier General adds:

I have met very few five-year soldiers who have been on as many deployments as Chris. He believed in what he was doing. Not only serving his Nation, but serving the people of Afghanistan and Iraq. He will live on in our Army for years and years.

Chris's Army experience will also live on in the house of his grandmother, Zola Hamlin. Chris often sent her mementoes of his experiences around the world, including currency from the Holy Land, a tiny model of the Eiffel Tower, and a plastic bottle of sand from Normandy Beach with a picture of Chris standing on the beach taped to the front. ''We've always been real close,'' Zola said.

Chris's stepfather Otis said Chris talked to him about perhaps attending the University of Kentucky after returning home. He was considering a career in law enforcement or as a corrections officer.

In Iraq, Commander Vanourney said Chris's caring nature came through as he made an effort to learn the names of the children who gathered around the American troops. He told me: ''I think we're making a difference,'' the commander recalls.

Our sympathies go out to the many loved ones that Chris leaves behind today as I share his story with my fellow Senators. We are thinking of his mother, Autumn Eve Hamlin; his father, Ronnie Veach; his stepfather, Otis Johnson; his grandparents, Zola Lewis Hamlin and Thurman Jerome Hamlin; his aunt, April Hamlin Young; his uncle, John Hamlin; his five half sisters, and many other beloved friends and family members. Chris was predeceased by his aunt, Dovey Lewis Hollins.

In a letter that Chris sent home to his family from Iraq with advice for the people he missed back home, Chris wrote:

Everyone dies . . . but not everyone lives. Life may not always be the party we hoped for, but for the while we are here, we should dance. Right now I'm in Baghdad patrolling the streets day and night, and I'm proud of my job.

This Senate is also proud of the job SSG Christopher N. Hamlin did. We honor his service and his great sacrifice, and we extend to the Hamlin family the thanks of a grateful nation for lending their country this fine patriot and soldier.

Mr. President, I yield the floor.

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

UNANIMOUS-CONSENT REQUEST—H.R. 6842

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6842, a bill to restore second amendment rights in the District of Columbia. I ask unanimous consent that the bill be read a third time and passed, and a motion to reconsider be laid upon the table.

This is the bill that was passed by the House last week by an overwhelming margin, and I move my unanimous consent request.

The ACTING PRESIDENT pro tempore. Is there objection?

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

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

Mr. DURBIN. Mr. President, this is an attempt to write the DC gun laws and to take away the authority of the elected government of the District of Columbia to write its own laws relative to firearms consistent with the new Supreme Court decision. If the Senator from Texas were making such a proposal for the city of Dallas or the city of Houston or the city of San Antonio, it would have some credibility because that is her State. But to make this request that we would overrule the power of the elected government of DC to implement the Supreme Court decision is inappropriate.

On behalf of Senators who have signed a public letter in opposition to the bill that passed the House, Senators LAUTENBERG, FEINSTEIN, MENENDEZ, MIKULSKI, AKAKA, JACK REED, TED KENNEDY, JOHN KERRY, CHRIS DODD, HILLARY RODHAM CLINTON, BEN CARDIN, and myself, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mrs. HUTCHISON. Mr. President, let me just respond by saying that it is the prerogative of Congress to make laws that are directly appropriate for the District of Columbia. I have been on the DC Appropriations Subcommittee; I actually was chairman when Senator DURBIN was ranking member, so he knows well that we pass laws for the District of Columbia because it is the District of Columbia, and we all appropriate money for the city to function. We have introduced this bill because the District of Columbia failed to protect the second amendment rights of the citizens of the city over which Congress has the ultimate responsibility.

It is entirely within the role of Congress to address an issue where a city is not protecting the constitutional rights of its constituents, over which the Congress has the authority. It would not be the same in the city of Chicago or the city of Dallas or other cities in our country. The District of Columbia is a unique city in that it is overseen by Congress. Congress has acted in the past over many issues where the District has fallen short, and I would say Senator DURBIN and I have done quite a bit to strengthen the government of the District of Columbia and make it more financially responsible.

So I am disappointed that the Senator has objected. I have submitted for the RECORD a letter to Senator REID from 47 of our Members who asked Senator REID to let this bill come forward because, in fact, the District of Columbia acted—and I waited. I did not pursue this until the District of Columbia City Council acted because I hoped

they would do the right thing. Unfortunately, they put up so many barriers to a person's right to self-defense in their home by requiring that a handgun be locked and unloaded, and that is not protection—not in Chicago, not in Dallas, not in Houston, and not in the District of Columbia—nor can we overcome the Federal law that does not allow interstate sales of guns across State borders because in the District of Columbia, one should be able to go to Maryland or Virginia and buy from a licensed gun dealer to be able to pursue their right to protect their home and their family in the District of Columbia.

So the bill is necessary for the rights of the people of the District of Columbia over which Congress does have ultimate responsibility, and it is my hope that we will do what the House did overwhelmingly and pass this bill and send it to the President. I will continue to pursue opportunities to make that happen. Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The assistant majority leader.

Mr. DURBIN. Mr. President, I first came to this city over 40 years ago as a student. It was a time before the District of Columbia had home rule. There was a certain paternalism felt by Congress toward the city of Washington, DC. Of course, the city of Washington, DC, does not have a voting representative in the Senate, and the delegate, ELEANOR HOLMES NORTON, who serves in the House, has limited authority to vote in committee but not on the floor. So DC does not have a voice in the House or Senate Chambers, despite the fact that some 600,000 taxpaying Americans live in our Capital City. I think that is wrong. I have consistently supported giving DC representation in Congress because I believe these Americans living in this city deserve the same rights to have a vote and be heard as those who live in Chicago or Dallas or Houston. But that has been the course of history.

Many people who come to Congress, always longing to be a mayor, get a chance to be a mayor over the District of Columbia. So this poor Capital City has 535 would-be mayors in the House and Senate who want to write ordinances for the city of Washington, DC, some of whom have been mayors at home, some of whom have lost in elections for mayor, but they are going to come here and be the mayor of Washington, DC, in addition to being a Member of the House and Senate.

There was another event that occurred shortly after I arrived in Washington—in fact, within a few weeks after I arrived—and that event occurred on November 22, 1963, in the city of Dallas, TX, when a great man and wonderful President, John Kennedy, was assassinated because another man took a long-range rifle and shot at his motorcade as he passed through that city, mortally wounding the President of the United States and claiming his life. It was a tragedy which those of us who lived through will never forget as long as we live, and it is a reminder that even if you recognize and respect rights under the second amendment—and I do—there have to be reasonable limits in terms of firearms and weapons. Otherwise, the Lee Harvey Oswalds of tomorrow can literally menace those who visit this city.

I just left a meeting with the President of Afghanistan, a wonderful man who risks his life in Kabul every day to give his people in Afghanistan a chance for freedom. He is under heavy security and guard not only in Afghanistan but in the United States. Are we going to put ourselves in a position to say—as the bill that the Senator from Texas wanted to bring to the floor says—that we are going to repeal the District of Columbia's laws on semiautomatic and assault weapons?

Are we going to now say that Congress will mandate that weapons which could be dangerous for those who live here and those who visit here in this Capital City, that we will decide in Congress which weapons will be allowed and which will not be allowed? That is what this bill does. That is exactly what it does. It goes much further than the Supreme Court decision in DC v. Heller reached just a few weeks ago.

Let me be specific. The bill would severely undermine DC gun laws far beyond the scope of that Supreme Court decision. That decision invalidated the District of Columbia's handgun ban and found that the second amendment confers an individual right. I don't quarrel with that, but it did not require the invalidation of all other types of laws, as this bill does. In fact, Justice Scalia—no liberal—Justice Antonin Scalia, in the majority opinion in Heller, specifically noted that a wide range of gun laws are ''presumptively lawful.'' Everything from laws ''forbidding the carrying of firearms in sensitive places'' to ''conditions and qualifications on the commercial sale of arms.''

Justice Scalia, in acknowledging that the second amendment creates an individual right to firearms, still made it clear that individual jurisdictions—States, local units of government—would still have the authority to forbid the carrying of firearms in sensitive places and to impose conditions and qualifications on the commercial sale of arms.

The bill that Senator HUTCHISON wants us to impose on the District of Columbia, however, repeals the prohibition of the District of Columbia of carrying guns in public, directly counter to the language of Justice Scalia; repeals DC's gun registration requirements, though it is clear in the language of the Supreme Court decision that jurisdictions such as Washington have the right to impose conditions and qualifications on the commercial sale of arms; repeals the requirement of the District of Columbia that guns are not sold to those who abuse them in crimes or those who are mentally unstable. The provisions of the bill which Senator HUTCHISON would impose on the District of Columbia repeals their right to stop people with mental illness from buying firearms or those with a history of commission of felonies. Does that make sense? Does it make sense in Washington? Does it make sense in Chicago? Does it make sense in Dallas or Houston? It does not make sense.

To come here and say that we are going to write the DC gun law, we are going to decide the safety of 600,000 people and every visitor to this city, is plain wrong. Give the city of Washington the same opportunity that the city of Dallas, Houston, San Antonio, and Chicago asks: to write laws consistent with this Supreme Court decision. They have to. Ultimately, any effort to do otherwise is going to be overturned by that Court. But to impose, as the Childers bill would—Representative CHILDERS of Mississippi introduced this bill—as this bill would, is to go too far.

I will object to this because I think this city of Washington, as well as the cities of Chicago and Springfield, IL, which I represent, and the cities of Texas have the right to write their laws to protect their citizens. When we come here and impose on them requirements and restrictions that are not being imposed on cities in our own State, it goes too far.

I yield the floor.

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

Mrs. HUTCHISON. Mr. President, I think it was not quite accurate to suggest that repealing the DC's gun ban and all of the onerous restrictions put on it weren't replaced in the law to require that there be licensed gun dealers from which you could purchase a gun.

Of course, they would be licensed with all the Federal requirements, all the State requirements in Maryland and the State of Virginia. Of course, that would be a part of this law.

I have to say, I am not understanding why the distinguished Senator from Illinois continues to say the Congress does not have a right to impose our will on the District of Columbia. I have the Constitution of the United States. Article I gives the exclusive jurisdiction over the District of Columbia to the Congress ''To exercise exclusive Legislation in all Cases whatsoever, over such District. . . .''

The District of Columbia was created to be the seat of government over which Congress would have exclusive jurisdiction. It would not apply to any other State where the Constitution says the States rights prevail. But the District of Columbia is a special city, which I know the Senator from Illinois knows. It is not 535 people trying to usurp the rights of the mayor. It is 535 people who are trying to exercise our responsibility to have laws in the District of Columbia that would adhere to

the constitutional rights of the citizens here. It is our responsibility, and that is what we are trying to do.

Of course, I know the Senator from Illinois knows it has been clearly upheld that preventing certain areas for the carriage of guns, qualifications on sales, bans on automatics have been declared reasonable. I know the Senator from Illinois knows that. Those would be provided for, of course, because it is Federal law.

What we are trying to do is give the basic rights, which is our responsibility as Congress, to the citizens of this District to keep and bear arms, to have the individual right to have a handgun in their home to protect their families, not a handgun that is locked and unloaded, which is what the District of Columbia Council has put out as its response to the Supreme Court case that declared their ban unconstitutional; not to provide so many restrictions and costs on registering a gun that it becomes very difficult and creates a restriction on those second amendment rights; and last but not least, giving them the right in this one instance to buy a gun across State lines because this District is bordered by Virginia and Maryland, where there are gun dealers who are licensed, who do have the correct restrictions and background checks in place to be able to do that because there are not gun dealers in the District of Columbia who would give the proper access to people who would want to protect themselves and their homes.

When I look at the statistics in the District of Columbia, I look at the person who is robbed and murdered in their home. I look at the policeman who is shot in the face doing his duty in this District. I think people should have the right in this District to protect their businesses with a handgun, which is barred by the District of Columbia, and to have a firearm in their homes unlocked and able to protect their families from an intruder.

We did not get to bring up this legislation today. When the House of Representatives passes something 266 to 152, that makes a clear statement that this Congress is trying to do the right thing to help the District of Columbia residents have their second amendment rights.

I hope at some point the Senate will take up this bill that has been passed by the House overwhelmingly and send it to the President, who I know will sign it.

The PRESIDING OFFICER (Mr. BROWN). The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, the police chief of the District of Columbia, Cathy Lanier, testified before the House of Representatives and said this bill, which Senator HUTCHISON is trying to impose on the District of Columbia, would make it far more difficult for the policemen in the District of Columbia and Federal agencies ''to ensure safety and security in the Nation's capital,'' and she cited particular concerns about providing security for the thousands of dignitaries, motorcades, and special events that occur in our Nation's capital.

I wish to listen to those who are in uniform risking their lives in Washington, DC, to keep it safe for the people who live and visit here. They should be given the opportunity to make sure the laws that are written are written in a way to be consistent with the Supreme Court decision, consistent with the individual right to bear arms but also consistent with the standards that Justice Scalia mentioned.

The Childers bill that Senator HUTCHISON would say must be the law of the District of Columbia would repeal the District of Columbia's prohibition of carrying guns in public. That runs directly counter to the language of Justice Scalia, who said that States and cities could impose laws ''forbidding the carrying of firearms in sensitive places.'' Does that mean we would be prohibited from searching people coming into the Capitol complex and taking their guns away under the Hutchison provision? I am not sure I know the answer to that question, but I think it is worth thinking about carefully before we consider imposing this gun ordinance from the House.

I am also concerned about the fact that this bill would repeal the right of Washington, DC, to regulate gun sales. I don't want guns to end up in the hands of the mentally ill and those with a history of felonies, violent felonies. Does that make you feel safer?

My State of Illinois, similar to the State of Virginia, recently went through this tragic episode, where someone brought a gun into college last year at Northern Illinois University, killing innocent people. It also happened across the river at Virginia Tech.

Do I think in Illinois and in Virginia we want to make sure on college campuses and other sensitive places that people do not carry firearms? Of course, I do. If I am going to send a child of mine or grandchild to a university, the first thing I want is for them to come home alive. If it means putting reasonable standards so people cannot carry guns into those surroundings, we should do it. Why would we create a different circumstance for the District of Columbia? I went to school at Georgetown University. If Georgetown wants to make certain that students do not carry guns on to certain elements of the campus, I stand behind them and I will fight for them. It is consistent with the Supreme Court decision.

I wish to tell you something, the Childers bill that Senator HUTCHISON would impose on Washington repeals Washington's right to prohibit the carrying of guns in public. That goes too far. To take this provision that has been written by the gun lobby and impose it on the District of Columbia and on all the people who live here is wrong.

The Senator is right; in the past, Congress has done just about anything you can think imaginable when it comes to imposing laws on the District of Columbia. Many Members of Congress who never served as mayors get their chance to pick on this city right here, to write Federal legislation that they would never think of introducing back home for their own hometowns. Let's do it for Washington; let's go ahead and try a little experiment. That is not fair, it is not just, and it is not American.

These people in this town deserve a voice in their own future, to elect people who speak for them and represent them, as we do all across America, to have a chance, as Delegate NORTON has asked for, only 6 months to implement this new Supreme Court decision is not unreasonable. I know there are those who want it done today, and I am anxious to see it done, too, but I am not going to try to impose a law on the District of Columbia that is unfair, that creates insecurity where we have been warned by the police chief that it makes it less safe for visitors to the Nation's capital. That is irresponsible.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter, dated September 22, 2008, to our majority leader from some of my colleagues expressing concern about this legislation.

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

U.S. SENATE,
Washington, DC, September 22, 2008.

Hon. HARRY REID,
Majority Leader, U.S. Senate.
Washington, DC.

DEAR LEADER REID: We are writing to express our concern about H.R. 6842, the ''National Capital Security and Safety Act,'' which would override the laws of the District of Columbia on the ownership of firearms in the District. The bill passed the House of Representatives on Wednesday, September 17, and we understand it will be placed on the Senate calendar without being referred to the Homeland Security and Governmental Affairs Committee or the Judiciary Committee.

This legislation would have a considerable impact on safety and security in the nation's capital. In addition, we understand that it makes at least one significant change to federal criminal law. As a result, we are concerned about proceeding to this bill without hearing from local and federal law enforcement officials and other interested parties. We also believe there should be an opportunity to offer and debate amendments to this bill.

In short, this legislation is too important to consider according to a truncated process. Thank you for your attention to this matter.

Sincerely,

Frank R. Lautenberg, Dianne Feinstein, Robert Menendez, Barbara A. Mikulski, Daniel K. Akaka, Jack Reed, Ted Kennedy, John F. Kerry, Chris Dodd, Hillary Rodham Clinton, Ben Cardin.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The senior Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I wish to make sure the record shows that, No. 1, it is the constitutional responsibility of Congress to assure that

the District of Columbia residents have their second amendment rights. That is our highest calling. It is our highest responsibility. It is not usurping anyone's right in the District of Columbia City Council. It is standing for the rights of the people of the District of Columbia, which is our responsibility to do.

Secondly, I want the record to be very clear that every gun dealer in the District of Columbia—there is one—in the State of Virginia, and in the State of Maryland all have the same requirements that are Federal law that would have to be adhered to that would require a record check by the National Instant Criminal Background Check System. There would be no exceptions to that. Having the background check would be essential for anyone to purchase a gun under our law or any law of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I ask unanimous consent to be recognized as in morning business.

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

FINANCIAL CRISIS

Mr. ISAKSON. Mr. President, in the next 48 to 96 hours, Members of this Senate and Members of the House of Representatives will be called upon to make what may very well be the most important decision any of us have been asked to make, certainly domestically.

There have been a lot of reckless comments, a lot of sobering comments, a lot of speeches made on this floor, a lot of accusations made regarding the recovery or rescue supposedly by Secretary Paulson. But it is very important for Members of this body to, first of all, make sure that facts are reported accurately and, second of all, that we give ourselves a chance to get this action right because there will be no second chance.

Yesterday, two Senators—Senator COBURN from Oklahoma and Senator GREGG from New Hampshire—made very eloquent, accurate, and sobering speeches about the gravity of the economic situation we face but also correcting some of the accusations that have been made by some about the recovery that has been proposed.

This morning, I was heartened to see two people in the media make comments early on the morning news, which gave me hope that we are finally coming to a point where people are going to report facts rather than fantasy.

Ali Velshi, who is the economic reporter on CNN, in fielding a question from a listener who blamed the rescue we are talking about to be a rescue of Wall Street, pointed out to that person that this is not a rescue of Wall Street. We are giving a chance to provide liquidity to banks, savings and loans, credit unions, and financial institutions of the United States of America, not Wall Street.

And Boone Pickens, who was interviewed because ostensibly he has lost millions of dollars of his multibillion assets in recent days, when asked about the consequences of us doing nothing, said very simply: ''You must trust Mr. Paulson.''

I trust him. We must do what is right. Those are sobering comments. I thought what I would do for a little bit is set the record straight, or at least accurately, of some of the things that have gone on, some of the things that are going on, and what the Paulson proposal can do when it is perfected to help us in a very difficult period of time.

As I said on the floor of this Senate on many occasions, the villain in this situation is very essentially Wall Street's investment banking community and Moody's and Standard & Poor's, the rating agencies. They created subprime securities. Moody's and Standard & Poor's wrote them as investment grade. They sold them around the world. When those high-risk, poorly qualified, high-yielding loans were made and began to be defaulted on, the securities started losing their value, and they lost them at a rapid rate. They became known as subprime securities or, as some have called them, toxic assets.

The problem that faces the country today is the uncertainty of the value of those assets has plummeted their value to virtually zero. There is no market. The American people yesterday, in looking for a place to invest their money, were willing to take zero interest to buy Treasury bills, meaning they were looking for a place to park their money.

We are not in a time where there is any confidence in the investment community and everybody is worried and concerned. Secretary Paulson's proposal is to spend up to—and I would use the word ''invest'' up to rather than ''spend''—$700 billion to purchase from financial institutions these mortgage-backed securities at a discounted price established by the Secretary. Assuming for a second the discounted price is 50 percent, that $700 billion would actually take off the shelves $1.4 trillion in mortgage-backed security assets held currently by financial institutions—a significant amount of money. The minute the Treasury begins to buy these entities and these securities, there are going to be people coming back to the market to buy them as well.

Think about this, Mr. President: If you buy a security at 50 cents on the dollar, then you are reducing what the company paid for it—their investment—by 50 percent. If the default rate on mortgages—on subprime loans—in the country is 12 or 15 percent, which in some cases it is, that is only 85 percent of 100, which means there is a 35-percent spread on those mortgages that are paid to maturity.

So with the strength of the country being able to buy those securities, hold those securities to maturity, there very possibly is a significant margin for the Treasury of the United States. The amount of the investment made by this country will never be $700 billion. It will be somewhere between $700 billion and whatever we recover from those securities upon their maturity, which could well be $500 billion, $600 billion, $700 billion, even maybe possibly a margin above that.

So this is not an investment to save Wall Street. This is an investment to provide liquidity to the lending institutions that service my citizens in Georgia and yours in Ohio and my colleague's in Oklahoma, the people who now are struggling to be able to get credit for their small business or for their car loan or for a mortgage.

I think it is also important to recognize that some of the actions taken by the Fed and the Treasury in the weeks leading up to this decision, which have been referred to also as Wall Street bailouts, have been, in some cases, misreported. The Bear Stearns investment of $29 billion helped a transaction to be made that caused Bear Stearns to lose 90 percent of its value. That is not a bailout. AIG is paying the taxpayers of the United States 8½ percent on a loan we made to AIG to allow it to liquidate itself—a loan, by the way, that the U.S. Treasury will make money on.

The proposal being made on those two is off the balance sheet for the United States. The $700 billion proposal is on the balance sheet, and it will create a liability, and during its maximum time it will raise the debt. But as the securities are held to maturity, as they are sold at a price between the discount they are purchased for and the value they ultimately are redeemed for, the Treasury will have a reduced and diminished liability.

I am not here to sell the Secretary's proposal, and I am anxious to wait for the meeting this afternoon to see the final details, but I am saying that words are important and loose lips at a time such as this in our country are very dangerous. For us to castigate a recommendation to save our economy—which, in fact, is a rescue and not a bailout—is wrong, and it is wrong for elected officials, such as myself or anyone else, to take fast-and-loose facts and apply them to a situation that is the gravest we have faced in this country in a long time.

So I take the word of Boone Pickens to place confidence in those we have entrusted to represent us—in this case, Secretary Paulson. I take solace in the words of the President last night and the sobering comments of Senator JUDD GREGG on the floor of this Senate when he explained accurately and correctly the financial effects of doing nothing in this situation.

Mr. President, we have 48 to 96 hours to make a decision. Let's make it on the facts. Let's make it in the best interests of the American people. Let's

make it in the best interests of Main Street because, after all, those are the people we serve—the ones who go to our banks, our savings and loans, who run our small businesses, and who are our next-door neighbors. They are the Americans we represent. They are the Georgians I represent. When I make a decision this weekend, it will be in their best interest, their children's, and their lives.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Oklahoma is recognized.

THE ENVIRONMENTAL MOVEMENT

Mr. INHOFE. Mr. President, let me first say that this has been a very difficult subject, and I have the utmost respect for the Senator from Georgia. As he said, I am looking forward to waiting and seeing a final product. I look at what is there right now, and I do have concerns. I have concerns as to who the asset managers will be, what institutions will be involved, and what types of assets. It would seem to me, as I read it, that as the $700 billion is paid down, other assets could be purchased, and I just wonder where it would end. I believe some new heads will come in and kind of look at these proposals and perhaps come up with something that will resolve a looming problem we all are concerned about.

Today, my concern is on a different subject and one that is very important to me as an American citizen and as the ranking member of the Environment and Public Works Committee. The situation I am about to discuss reminds me of an old saying: Beware of wolves dressed in sheep's clothing. Today's so-called environmental movement can be described in much the same way.

Campaigns to ''save a cuddly animal'' or ''protect the ancient forests'' are really disguised efforts to raise money for Democratic political campaigns. Take this ad, for example, displayed on the League of Conservation Voters'—or the LCV's—Web site. This is LCV's standard text used to raise money for a nonprofit organization. In turn, the LCV takes these donations, given to ''save the environment,'' and then uses them to fund ads for Democratic candidates, such as Ben Lujan from New Mexico. LCV, similar to other groups I will highlight later, disguises itself as an environmental group dedicated to saving the environment. Yet, as shown by this political ad, it is simply an extension of the Democratic political party.

In the fall of 2004, I came to the Senate floor to discuss this very topic. This report and my remarks today are an update of the 2004 report. Over the last several months, my staff has put considerable time and effort into examining this deception. This examination has uncovered the tangled web of charitable and environmental organizations, political campaigns, and large foundations. Environmental groups are tax-exempt, IRS-registered, 501(c)(3) charitable organizations, meaning that contributions to these groups are tax deductible. I think it is very important that people understand, because there is always confusion here, that a 501(c)(3) is not supposed to be a political organization. It is a charitable organization. And there are many legitimate ones out there that deserve the tax-exempt status they have.

These groups profess to be stewards of the environment and solicit contributions from a variety of sources using these claims, but they demonstrate more interest in hyping the extreme environmental scenarios to raise money for raw political purposes than working toward actual real-world environmental change for the benefit of all Americans. Not surprisingly, given these deceptions, these nonprofit groups are tightly affiliated with and fund the 501(c)(4) lobbying organizations and 527 organizations. And we all know that 501(c)(4) organizations and 527 organizations are lobbying organizations that get involved in political campaigns.

With these intertwined organizations, it is extremely difficult to differentiate the source of funds and track their use. This problem is highlighted in a report prepared by my staff which provides preliminary examples based on the five most politically active environmental groups. The report describes their activities, the foundations that provide their financial support, and the interconnected web among these organizations.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the staff report to which I just referred.

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

(See exhibit 1.)

Mr. INHOFE. Mr. President, my staff is not the first to uncover this sham. A December 19, 2007, article in the Wall Street Journal highlighted the very same problem, stating:

> Because the IRS doesn't require 501(c) organizations to detail election spending or to list contributors, it is difficult to track their political activity.

The Journal analyzed data on 30 separate 501(c) groups active in elections from 2000 to 2006, culled from a variety of sources. The data—this again is from the Wall Street Journal—showed that the 30 organizations spent at least $155 million on the 2006 elections, nearly twice what they spent in 2000.

Environmental groups have become experts at duplicitous activity, skirting laws up to the edge of illegality and burying their political activities under the guise of nonprofit environmental improvement. This chart demonstrates this interconnected ''enviro-family affair'' of nonprofits and their benefactors. As you can see, the six organizations at the bottom of this chart are all either 527 groups or political 501(c)(4)s.

Let's take a look at the League of Conservation Voters, which is a poster child for this deceit. The LCV is an IRS-registered 501(c)3. Contributions to the organization are tax deductible. However, contributors should understand that LCV is a political organization affiliated with a 501(c)(4) organization, a political action committee, and a 527 organization. All three of these are political.

LCV represents itself as ''turning environmental values into national priorities,'' and much of its funds, even from its 501(c)(3) organization, goes to fund voter mobilization and education drives.

In each election cycle, LCV endorses political candidates. Since 1996, LCV has published a ''Dirty Dozen'' list and bragged about its effectiveness in ousting candidates on the list. Not surprisingly, the list singles out all Republican candidates, but they almost always throw in one Democratic candidate—just one—to make it appear as if it is technically bipartisan. To date, 83 names have been placed on the LCV's ''Dirty Dozen,'' 74 of which are Republicans. By their bipartisan claims, it would be expected that the LCV's support would be split evenly. The publishers of the ''Dirty Dozen'' list have yet to name even a dozen Democrats to their list in the last 12 years.

In 2006, LCV had two 527 groups, the League of Conservation Voters SSF and the League of Conservation Voters, Inc., SSF–527 II. These 527 groups were fined by the Federal Election Commission for three violations of Federal election law. One of the violations was that LCV knowingly accepted individual donations in excess of $5,000. LCV collected over $6 million in donations during 2004 that violated the $5,000 individual maximum amount restriction, and the ultimate fine was a total of $180,000 by the FEC.

According to an FEC press release, LCV received this fine for acting as a clear political committee and violating Federal election law. The Wall Street Journal highlighted these violations in an article published in December 2007. Following this incident, the LCV restructured its organization into a 501(c)(4), which allows the organization to run with fewer disclosure restrictions.

LCV has a long history of direct involvement in political campaigns. In 1996, LCV spent nearly $1.5 million in ads focused on defeating its ''Dirty Dozen'' list targets of 11 Republicans and, oh yes, 1 Democrat. In 1988, the LCV spent $2.3 million targeting its ''Dirty Dozen'' list of 12 Republicans and, oh yes, 1 Democratic candidate. In 2000, the LCV spent nearly $4 million, again targeting 11 Republicans and 1 Democrat on its ''Dirty Dozen'' list. And I can't forget that in 2000, the LCV also endorsed Al Gore for President—clearly a political endorsement. In 2002, LCV once again targeted 11 Republican

congressional candidates and 1 Democrat. Clearly there is a partisan pattern here. LCV spends hundreds of thousands of dollars in congressional contests against Republican candidates.

That same year, the group undertook its strongest single effort to date, focused on my friend, Senator ALLARD, who will be speaking right after me. The LCV claims to have budgeted $700,000 for that race—I am talking about incumbent Senator ALLARD from Colorado—and hired a campaign staff of 12 to coordinate phone banks and precinct walks. In addition, LCV ran television and radio advertisements against Senator ALLARD. Of course, as we all know, Senator ALLARD won in spite of that.

Altogether, the LCV reportedly spent $1.4 million in independent expenditures during the 2002 election cycle. Of that total amount, LCV spent $1.3 million benefitting Democratic candidates while only spending $136,000 for Republican candidates. That again is the ratio we see consistently, 10 to 1, to make it look as though it is not an arm of the Democratic Party. Two years later, in 2004, the ''Dirty Dozen'' list contained twelve Republicans and one Democrat. LCV and its affiliates spent a new record total of $16 million during that year's elections targeting the 13 candidates. As in previous years, the 1 Democrat on the list retained his seat while 4 of the 12 Republicans were defeated. For the first time, in 2004, the LCV included a Presidential candidate on their list. The LCV endorsed Senator JOHN KERRY for President—again all political.

In 2006, the LCV chose 15 candidates for their ''Dirty Dozen'' list. The list was comprised of 13 Republicans and 2 Democrats. While the two Democrats on the ''Dirty Dozen'' list retained their seats, nine Republicans lost their seats. The LCV and its affiliates used its extensive budget of $27 million on campaign activities.

The 2006 elections also highlighted the intertwined political activities of LCV and other groups. A coalition of environmental organizations, that included LCV and the Sierra Club, worked together in 2006 to defeat their top target Richard Pombo, then chairman of the House Resources Committee. This coalition invested more than $1.7 million in the race to defeat him. If that figure alone is not startling enough, then look at this chart that shows part of a Sierra Club press release that gloats about their activity in this House race. We see that the Sierra Club invested $545,000 in this race and had 643,000 contacts with voters, and sent 397,000 pieces of mail in this race alone—Richard Pombo, in California.

At the time of this report, the LCV had yet to release a completed version of the 2008 ''Dirty Dozen'' list. However, it has released the names of nine individuals who will fill up the ranks of the completed list. Of those nine, there is one Democrat joining the ''Dirty Dozen.'' I would be remiss not to mention that it looks like I will be on their list this year. It should come as no surprise that for the 2008 Presidential election, the LCV has endorsed Senator BARACK OBAMA for President.

As one individual who will be running, I am sure there will be a lot of money that will be in my race. I think it is kind of interesting that in this day, when we are all concerned with what might be happening on Wall Street and some of the people who have made huge salaries and then turn around and have a defunct company, we see the Environmental Defense Fund's Fred Krupp receiving a salary of $357,000; Sierra Club, Carl Pope, $207,000. I am hoping these contributors know that not only are their contributions going to organizations that are not doing anything about the environment, but they are paying very large salaries to large staffs.

While there is no means of calculating or anticipating what LCV will spend this year, as their budget has grown every election cycle, they will most likely have at least the $27 million that they did in 2006.

LCV is certainly not the only organization doing this. The Sierra Club, which describes itself as ''America's oldest, largest, and most influential grassroots environmental organization,'' has a similar record of trickery. The Sierra Club Foundation is a 501(c)(3) tax-exempt organization with an affiliated 501(c)(4) group, Sierra Club. There is also a 527 organization called the Sierra Club Voter Education Fund, which claims to be a ''separate segregated fund of the Sierra Club.'' The Sierra Club Foundation does not claim affiliation with this 527 organization, however the Sierra Club Voters Education Fund does not have its own board of directors, officers or trustees.

In 2006, the Sierra Club 501(c) organizations brought in more than $110 million and spent nearly $104 million; the Sierra Club 527, the Sierra Club Voter Education Fund, only brought in $60,000, but managed to spend nearly $1 million. That is pretty tricky.

Similar to LCV, the Sierra Club has a history of endorsing candidates for political office. Most recently, the Sierra Club announced its support of Senator OBAMA's Presidential bid. While there is no reported activity yet from the organization, the Sierra Club has been known to run television and radio advertisements both supporting their candidate and criticizing the opposition. At the time of this report, Sierra Club had announced its support of 13 candidates for seats in the United States Senate. Of those 13 candidates, none are Republicans. The organization has also announced its endorsement of 156 candidates for the U.S. House of Representatives. Of the candidates, four are Republicans. Essentially, 98 percent of Sierra Club's endorsements favor Democrat candidates.

Another example is the Natural Resources Defense Council.

The Natural Resources Defense Council, Inc. is registered as a 501(c)(3) organization. It is also affiliated with a 501(c)(4) organization, the NRDC Action Fund, and a 527 organization, the Environmental Accountability Fund. By having at least one of each category of tax-exempt organizations, these groups can transfer wealth throughout their family of organizations and remain virtually undetected. In its 2006 tax filing, Natural Resources Defense Council, Inc. transferred $98,801 to NRDC Action Fund, and NRDC Action Fund transferred $124,500 to undisclosed ''other organizations'' that same year.

Founded in 1970, NRDC purports to be the ''nation's most effective environmental action group'' whose mission is to ''[t]o safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends.'' The NRDC claims to use grassroots efforts and the power of legal and scientific expertise to achieve its goals, which they describe frequently as ''independent.''

From 2001 through 2005, the NRDC reported on the Bush administration by creating the Bush Record. The Record categorized President Bush's time in office as an administration that ''will cater to industries that put America's health and natural heritage at risk.'' The NRDC predicted that Bush would continue ''to undermine environmental enforcement and weaken key programs.'' The organization gave up the effort and stopped tracking the administration's moves after President Bush defeated Senator KERRY in the 2004 election. It is interesting, I remember the ''Clear Skies'' legislation that was the largest reduction of pollutants of any President in the history of America and it was defeated by the Democrats in the Environment and Public Works Committee.

My staff examined two other organizations, Greenpeace and Environmental Defense Fund, and found similar patterns of partisan fund-raising and spending.

Greenpeace, like other environmental activist organizations, has strong ties to other politically oriented groups. The chairman of the board of directors, Donald Ross, is involved in multiple organizations, including the LCV, where he is a board member. Ross is also the founder of M+R, a campaign strategy firm whose clients include, among others: Environmental Defense Fund; LCV; and the Democratic Congressional Campaign Committee. Greenpeace is also a client of Earthjustice, the legal entity that represents the Sierra Club, NRDC, and Environmental Defense Fund. Additionally, Greenpeace remains officially affiliated with the Partnership Project, whose members also include Sierra Club, Environmental Defense Fund, NRDC and LCV. While Greenpeace may not make a Dirty Dozen list, or endorse hundreds of Democratic candidates, it is affiliated with and supports the organizations that do. Furthermore, it

represents those affiliations to the rest of the world.

Environmental Defense Fund, EDF, describes itself as an organization that ''is dedicated to protecting the environmental rights of all people'' by using a scientific approach that is ''nonpartisan, cost-effective, and fair.'' Environmental Defense Fund is represented by its family of organizations, Environmental Defense, Inc., a 501(c)(3) organization, and Environmental Defense Action Fund, Inc., a 501(c)(4) organization.

EDF is also intimately connected with other environmental and political organizations. Trustee Frank Loy currently serves as one of Senator OBAMA's ''top environmental advisers'' for the 2008 Presidential campaign. This past year, trustee Douglas Shorenstein donated $272,100 to Democratic political objectives, including the Hillary Clinton and Al Franken campaigns. Trustee Joanne Woodward, wife of noted Hollywood star Paul Newman, donated significantly to both the Clinton and Obama campaigns. Until 2006, Teresa Heinz, wife of Senator JOHN KERRY served on the board of trustees for EDF. Heinz is also the current chairman of Heinz Endowments, a part of the Heinz Family Foundation, one of the Nation's 25 largest charitable foundations. Current EDF trustee George Woodwell also serves on the board of the NRDC.

EDF reported raising $71.8 million for the 2006 calendar year, and reported receiving contributions totaling more than $94 million during the 2006 IRS filing period. Of that amount, the organization spent $18.9 million to promote their stance on climate change issues, and $19.5 million collectively on land and ocean environmental issues.

In addition to the publicly professed alliances among these groups, they are all connected by the foundations that provide them with a significant amount of funding.

The Heinz foundations are some of the largest contributors to these nonprofit environmental organizations, and, of course, Ms. Teresa Heinz Kerry is either chairperson of the board of trustees or member of the board of trustees on each foundation. In fact, Ms. Heinz Kerry oversees more than $1.5 billion of Heinz foundation resources.

Last year alone, Heinz gave $160,000 to NRDC directly. Since 2002, Heinz has given a total of $740,000 to EDF, LCV, and NRDC specifically. Over the past 5 years, Heinz has also given $3.8 million to Tides. Tides has donated significantly to all five of the mentioned environmental organizations, and receives a large portion of their funding from foundations such as Heinz.

Another major supporter of environmental groups is the Turner Foundation, founded in 1990 by Ted Turner. The Turner Foundation sponsors special projects including the Partnership Project comprised of 20 national environmental groups. Since 2002, the Turner Foundation has contributed more than $2.9 million to the Partnership Project. Additionally, the Turner Foundation has given more than $1 million to the NRDC, $778,875 to EDF, and $6.7 million to the LCV Education Fund.

The Pew Charitable Trust, which claims it is ''an independent non-profit serving to inform the public on key issues,'' also gives substantially to environmental groups. Two of Pew's environmental priorities include global warming and wilderness protection.

Since 2002, Pew has given a substantial amount of money to environmental activist groups directly and through other private funds that finance these groups. Pew contributed $431,000 to EDF, $900,000 to NRDC, and $700,000 to the Partnership Project, a joint venture of the Nation's leading environmental groups. Additionally, Pew gave more than $7 million to the Tides Foundation. During that time, the Tides Foundation contributed a collective $1.8 million to the following organizations: EDF, LCV, Greenpeace, NRDC, and Sierra Club.

This tangled web of political financing and private dollars should be disconcerting and even scary to American's concerned about transparency and honesty in our Government. Clearly, where these environmental groups are concerned, there is no line between issue advocacy and political activity. And most disturbing is the fact that one cannot tell if these so-called environmental groups that claim to protect and conserve our environment, really spend any money on actually improving our environment.

Why is this important? Well, it is important because our environment is important to all of us. Despite what you may hear from these groups in their attack advertisements against President Bush and Republican candidates across the Nation, our air is cleaner, water more drinkable, and our forests are becoming healthier. For instance, over the last 30 years, we have cut air pollution in half.

This is also important because these wolves disguised in sheep's clothing are deceiving the America people. When an individual gives their hard-earned money to one of these organizations, most expect it to be used for the environmental cause they support, not political campaigning.

It seems that it is more important to these groups to turn their once laudable movement into a political machine misleading the American public regarding their purely politically partisan agenda under the guise of environmental protection. Again, a wolf in sheep's clothing.

Our nation's first Chief of the U.S. Forest Service, Gifford Pinchot, said, ''Conservation means the wise use of the earth and its resources for the lasting good of men.'' He also said that ''conservation is the application of common sense to the common problems for the common good.''

Those words ring true today. Unfortunately, it is clear to me that the environmentalist movement is deaf to them. What we find now is the fleecing of the American public's pocketbooks by the environmental movement for their political gain. We also find exhausting litigation, instigation of false claims, misleading science, and scare tactics to fool Americans into believing disastrous environmental scenarios that are untrue.

Mr. President, especially in this election year, the American voter should see these groups and their many affiliate organizations as they are: the newest insidious conspiracy of political action committees and perhaps the newest multi-million dollar manipulation of Federal election laws.

As an American citizen concerned about our environment and our country, I am dismayed and saddened by this deception. If these groups actually used the hundreds of millions of dollars they raise for actual environmental improvement, just think how many whales and forests we could save.

These wolves should be seen for what they really are: massive democratic political machines, disguised as environmental causes.

You know, I think a lot of people on this floor understand, both Democratic and Republican, and the American people, there has been a wake-up call. When you look at what happened in the bill back in 2005 that came forward on trying to put caps on the greenhouse gases and cap and trade, a very expensive system that would cost the American people over $300 billion a year.

At that time, there were only three Senators who came down to oppose that bill. Yet this was overwhelmingly defeated. Then fast forward 3 years to 2008. We had a similar bill on the floor of the Senate a few weeks ago. This time, 24 Senators, or 23, came down and joined me to tell the truth as to the economic destruction that would come should we pass this legislation.

So I think that wake-up call is there. In spite of the millions of dollars that are channeled through 501(c)(3)s to defeat Republican candidates, I think reason is winning.

EXHIBIT 1

INTRODUCTION

Environmental activism has become a multibillion dollar industry in the U.S. campaigns to save the whales or stop mining beg average Americans for their support through donation of their hard earned dollars. These environmental campaigns also receive millions from charitable foundations such as the Pew Foundation, Turner Foundation, and Heinz Foundation. But what most don't know when they donate to a cause to ''save the rainforest'' or ''save the polar bear'' is that their money could end up being used for partisan activities that are only tangentially related, if related at all, to the cause for which they are intended.

The majority of environmental activist groups present themselves as objective, nonpartisan, nonprofit groups that are dedicated to environmental integrity and protection. To accomplish their goals, these groups typically set up 501(c)(3) nonprofit organizations

with affiliated 501(c)(4) organizations. It is difficult to detail these organizations' specific spending habits. On December 19, 2007, the Wall Street Journal published an article that documented just how difficult this process is, and how political several 501(c) organizations were in the last year. The article stated:

''Because the IRS doesn't require 501(c) organizations to detail election spending or to list contributors, it's difficult to track their political activity. The Journal analyzed data on 30 separate 501(c) groups active in elections from 2000 to 2006, culled from a variety of sources. The data show that the 30 organizations spent at least $155 million on the 2006 elections, nearly twice what they spent in 2000.''

As early as 1995, the Internal Revenue Service (IRS) noticed a growing problem in today's non-profit sector. The IRS published an educational document about the difficulties in separating such non-profit organizations' nonpartisan status from the legislative and political activities that such organizations undertake. The report stated: ''[T]he work of exempt organizations specialists reflects diverse ways in which political agendas are forwarded. Today, political agendas are being forged by political parties, candidates, legislative caucuses, educational organizations, and political action committees. When entities employed in this process seek recognition of exemption under IRC 501(c)(3) or 501(c)(4), questions arise about the scope of political campaign, legislative, and political educational activities permitted under these sections.''

The IRS categorizes a broad issue that has become very prominent among today's leading environmental activist groups. For years, there has been public and political scrutiny over the activities of major environmental activist groups, such as Environmental Defense Fund (EDF), the Natural Resources Defense Council (NRDC), and the League of Conservation Voters (LCV), and their financial links to charitable institutions, such as the Tides Foundation and Heinz family foundations. These issues were brought to the public's attention several years ago through various publications such as the 2004 articles in The Hill and The Washington Post.

This report will focus on the financial intricacies and political ties of major environmental activist groups including the League of Conservation Voters, the Environmental Defense Fund, Greenpeace, the Natural Resources Defense Council, and the Sierra Club, and the major foundations that support them.

501(C)S AND 527S

The three different types of nonprofit groups analyzed in this report are 501(c)(3), 501(c)(4), and 527 organizations, all of which have tax-exempt status under the Internal Revenue Code. A single group is often affiliated with other types of organizations. For example, the League of Conservation Voters, Inc. is a 501(c)(3) that is affiliated with two 501(c)(4) organizations and two ''527 groups'' and a political action committee (PAC). There are different requirements and restrictions placed upon each group, as analyzed below.

501(c)(3) nonprofits are tax-exempt organizations that can participate in political issues, but not specific campaigns. These organizations must be organized and operated for a qualifying purpose (e.g., a charitable, educational, or religious purpose) and serve the public interest. They are commonly thought of as charitable organizations. The majority of the funds raised by these organizations come from individual donors and other public sources. The individual donations are tax deductible for the donor as long as they meet certain criteria. One such criterion is that the donor must present receipts for amounts of more than two hundred and fifty dollars. These organizations can lose their tax exempt status by supporting or opposing a candidate and engaging in campaign activities that are specifically linked to election periods, such as a presidential primary election.

A 501(c)(3) can lobby on their issues, but lobbying cannot be a substantial part of their activities. The organizations can also educate the public and fund research that supports their positions. However, 501(c)(3) organizations cannot ''participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.'' Some examples of popular 501(c)(3)s are The Salvation Army, United Way, and Habitat for Humanity. Any funds transferred by the 501(c)(3) to an affiliated organization cannot be used for impermissible purposes (e.g., campaign activities).

Another type of tax-exempt organization is a 501(c)(4) organization. These organizations are typically ''social welfare organizations'' whose purpose is to promote the common good and general human welfare. Unlike 501(c)(3) organizations, donations to 501(c)(4) organizations are not tax deductible. Under the scope of promoting the general welfare, the 501(c)(4) organizations can engage in political activities with fewer restrictions than a 501(c)(3). For example, a 501(c)(4)'s general lobbying efforts are almost unlimited. Additionally, a 501(c)(4) can promote a candidate for office, as long as campaigning is not the organization's primary purpose. A 501(c)(4) can generally receive and give funds to both its affiliated 501(c)(3)s and 527s without risking its tax-exempt status. Any transferred funds, however, may be subject to tax if those funds are used for a taxable purpose.

One of the most prominent examples of a 501(c)(4) campaign is Moveon.org Civic Action, more commonly known as Moveon.org. This organization, which began in 2002, is most famous for its television and print advertisements campaigning against the war in Iraq. The organization also utilizes electronic mail and petitions to achieve its goals. Under the scope of promoting the social welfare, Moveon.org is legally able to become politically involved to campaign for its goals and objectives.

Many 501(c)(3) and 501(c)(4) organizations also have affiliated 527 political organizations. Because 527s are political organizations, they can cross the partisan barrier that is off-limits to 501(c)(3) organizations. For example, a 527 organization can attempt to directly influence the election, appointment, or nomination of a particular political candidate for public office. 527 political organizations include the entities that are regulated as political committees under federal election law, such as political action committees (PACs). They also include organizations that appear intended to influence federal elections in ways that may be outside the scope of federal election law and therefore are not regulated by the Federal Election Commission (FEC). These latter organizations are commonly referred to as ''527s'' or ''527 groups,'' and that is how this report identifies them. A 501(c)(3) may not transfer money to an affiliated 527 organization for campaign activities, but a 501(c)(4) organization may be able to do so without losing its tax-exempt status, although the funds may be subject to tax.

A 527 group can conduct several partisan activities similar to a PAC. However, unlike a PAC, a 527 group cannot have as its major purpose the nomination or election of a federal office candidate, cannot expressly advocate for election or defeat of a clearly identified federal candidate, and cannot contribute money directly to a candidate's campaign. 527 groups can, however, utilize unregulated ''soft'' money to highlight specific candidate's strengths or weaknesses, and generally promote said candidate without specifically endorsing his or her election. Therefore, a 527 group may be able to essentially operate as a ''soft money'' PAC without having to register with the FEC.

In recent history, 527s have received increased scrutiny for not complying with IRS regulations, including donor disclosure requirements. Consequently, some organizations may have switched over to campaigning through their 501(c)(4) organizations. The 501(c)(4) retains the ability to engage in campaign activities but is not subject to donor disclosure requirements.

It is the ability to shift funds easily among these different organizations that has generated a stir of political attention and has raised some very serious questions about the validity of each. Supposed ''nonprofit, nonpartisan organizations'' can shift funds very easily to organizations formed for the sole purpose of partisan, political activity. 501(c)(3) organizations can shift funds to 501(c)(4) organizations, which can participate in partisan activities, although the funds could not lawfully be used for campaign activities. A 501(c)(4) can shift funds to a 527 organization, often founded for political campaign purposes. Clearly, without a system for tracking funding in these types of organizations, a donor could contribute to a nonpartisan, nonprofit organization and the donation could ultimately be used for partisan political activities. While this practice, if caught, would cause a 501(c)(3) organization to lose its tax-exempt status, it is nearly impossible to detect these funding shifts.

There are also questions about the exact scope and limitations placed upon 501(c)(3), 501(c)(4)s, 527s and PACs. With the existence of the 501(c)(4) and the PAC, what is the point of the 527? With significant partisan campaign activity undertaken by 501(c)(4) and 527 groups which are regulated by the IRS, how do lawmakers control and police how much money is actually being spent on campaigns, when the FEC's role in regulating these organizations is often unclear?

Outlined below are several examples that highlight the complexity of the web of nonprofit organizations and their political activities.

LEAGUE OF CONSERVATION VOTERS

LCV represents itself as ''turning environmental values into national priorities.'' The organization's mission is ''to advocate for sound environmental policies and to elect pro-environmental candidates who will adopt and implement such policies.''

The LCV is registered as a 501(c)(4) organization, with affiliations to several other organizations: the League of Conservation Voters Education Fund, a 501(c)(3), which claims to refrain from campaign activities, and the LCV Accountability Project, another 501(c)(4) organization. These affiliates, referred to as a ''family of organizations,'' are committed to running ''tough and effective campaigns to defeat anti-environment candidates, and support those leaders who stand up for a clean, healthy future for America.'' The very purpose of LCV is to campaign against anti-environmental candidates, an action that a 501(c)(3) cannot engage in. LCV does, however, make the claim that the LCV Education Fund is a separate entity, committed ''to bring[ing] the environment to the center of the public's attention as an issue critical to good public policy and a healthy political system.''

In 2006, LCV had two 527 groups: the League of Conservation Voters—SSF, and the

League of Conservation Voters Inc. SSF—527 II. These 527 groups were fined by the FEC for violating the following three separate provisions: Failure to register with the FEC as a PAC, failure to report contributions and expenditures to the FEC, and knowingly accepting individual's donations in excess of $5,000. (The FEC found that more than $6 million of LCV's expenditures during 2004 violated the $5,000 individual maximum amount restriction.)

The LCV was fined a total of $180,000 by the FEC. According to an FEC press release, LCV received this fine for acting as a clear political committee and violating federal election law. The organization was required to disclose all current and future contributions and expenditures and register as a PAC should it engage in activities that qualified it as such. The Wall Street Journal highlighted these violations in an article published in December 2007. Following this incident, the LCV restructured its organization into a 501(c)(4), which allows the organization to run with fewer disclosure restrictions.

Every election cycle, the LCV lists ''the Dirty Dozen,'' a list of federal candidates for election or re-election whom the LCV deems as environmentally unfriendly. The first list was created in 1996, and contained four members of the Senate, and eight members of the House. That year, LCV spent $1.5 million ''sending two hundred and fifty-four pieces of persuasion mail to targeted voters [and] running nine thousand television and radio ads'' against the members of the ''Dirty Dozen'' which included eleven Republicans and one Democrat. The one Democrat listed on the ''Dirty Dozen'' regained his seat in the House that year while seven of the Republican candidates on the list were not re-elected.

In 1998, the ''Dirty Dozen'' list was comprised of eleven Republicans and two Democrats. That year, the LCV spent a total of $2.3 million on election campaigning, ''where our efforts could provide the winning margin of difference.'' The two Democrats on the list retained their seats and nine of the eleven Republicans on the list were defeated.

In 2000, the LCV spent more than $4 million, ''the largest expenditure in history,'' on the election. Their ''Dirty Dozen'' list focused on eleven Republicans and one Democrat. In that election cycle, seven of the Republicans on the list were defeated; the one Democrat kept his seat.

Again, in 2002, the ''Dirty Dozen'' list was comprised of eleven Republicans and one Democrat. LCV did not report how much it spent on the year's election cycle. Five Republicans on the list lost their seats while the one Democrat retained his seat.

Two years later, in 2004, the ''Dirty Dozen'' list contained twelve Republicans and one Democrat. LCV and its affiliates spent a total of $16 million during that year's elections targeting the 13 candidates. As in previous years, the one Democrat on the list retained his seat while four of the twelve Republicans were defeated. For the first time, in 2004, the LCV included a presidential administration on their list. The LCV endorsed Senator John Kerry (D-MA) for President.

In 2006, the LCV chose fifteen candidates for their ''Dirty Dozen'' list. The list was comprised of thirteen Republicans and two Democrats. While the two Democrats on the ''Dirty Dozen'' list retained their seats, nine Republicans lost their seats. During this election, the LCV asked viewers of their web site to choose one candidate for the ''Dirty Dozen'' list. The viewers chose Rep. Charles Taylor (R–NC) to join the ''Dirty Dozen'' list. Taylor lost his seat in 2006 to Heath Shuler (D–NC). The LCV and its affiliates used its extensive budget of $27 million on campaign activities.

At the time of this report, the LCV had yet to release a completed version of the 2008 ''Dirty Dozen'' list. However, it has released the names of nine individuals who will fill up the ranks of the completed list. Of those nine, there is one Democrat joining the ''Dirty Dozen.''

While there is no means of calculating or anticipating what LCV will spend this year, as their budget has grown every election cycle, they will most likely have at least the $27 million that they did in 2006.

For more than a decade, the LCV has produced its ''Dirty Dozen'' list, targeting select Congressional figures. The organization has operated under the guise of ''the independent political voice for the environment,'' since even before the publication of the ''Dirty Dozen''. To date, eighty-three names have been placed on the LCV's ''Dirty Dozen'', including seventy-four Republicans. By their bipartisan claims, it would be expected that LCV's support would be split evenly; however, almost 90 percent of LCV's recommendations have been to remove Republican candidates. The publishers of the ''Dirty Dozen'' have yet to name even a dozen Democrats to their list in the past twelve years. It has become increasingly apparent that the LCV has been allowed to participate in partisan politics while conveying the impression of objectivity. The organization, however still continues to make the claim that they don't support one political party over another.

NRDC

The Natural Resources Defense Council, Inc. is registered as a 501(c)(3) organization. Like the LCV ''family of organizations,'' it is also affiliated with a 501(c)(4) organization, the NRDC Action Fund, and a 527 organization, the Environmental Accountability Fund. By having at least one of each category of tax-exempt organizations, groups can essentially transfer wealth throughout their family of organizations and remain virtually undetected. In its 2006 tax filing, Natural Resources Defense Council, Inc. transferred $98,801 to NRDC Action Fund, and NRDC Action Fund transferred $124,500 to undisclosed ''other organizations'' that same year.

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From 2001 through 2005, the NRDC reported on the Bush Administration by creating the Bush Record. The Record categorized Bush's presidency as an administration that ''will cater to industries that put America's health and natural heritage at risk.'' The NRDC predicted that Bush would continue ''to undermine environmental enforcement and weaken key programs will be made.'' The organization gave up the effort and stopped tracking the Administration's moves after President Bush defeated Sen. Kerry in the 2004 election.

NRDC has also showed their party leanings in popular culture. In an episode of the HBO long-running comedy, Curb Your Enthusiasm, the NRDC was featured in connection with Senator Barbara Boxer (D-CA). The episode, which features Boxer as the event opener for the NRDC event, initially aired on September 16, 2007. Boxer currently serves as Chairman of the Senate Committee on Environment and Public Works.

At the time of this report, the NRDC had made no formal declaration of support for a presidential candidate.

SIERRA CLUB

The Sierra Club Foundation is a 501(c)(3) tax-exempt organization with an affiliated 501(c)(4) group, Sierra Club. There is also a 527 organization called the Sierra Club Voter Education Fund, which claims to be a ''separate segregated fund of the Sierra Club.'' The Sierra Club Foundation does not claim affiliation with this 527 organization, however the Sierra Club Voters Education Fund ''does not have its own Board of directors, officers or trustees.'' In 2006, the Sierra Club 501(c) organizations brought in more than $110 million and spent nearly $104 million; the Sierra Club Voter Education Fund only brought in $60,000, but managed to spend nearly $1 million.

The Sierra Club Voter Education Fund has a history of receiving support from its ''unaffiliated and unpartisan company'' of the same name and address. During 2002, the Sierra Club Voter Education Fund reported total contributions of slightly more than $3 million. During that calendar year, the Voter Education Fund reported received $2.25 million, the vast majority of their total revenue, in contributions from the Sierra Club.

It's not hard to understand why the Sierra Club's web of affiliations, or ''non-affiliations,'' becomes so intertwined. A brief glimpse at the activities of Carl Pope, Sierra Club's executive director, shows a tangle even more convoluted than the organization that he spearheads. In the past five years, Carl Pope has played a major role in the following organizations: Sierra Club; California League of Conservation Voters, executive director; Public Voice; California Common Cause; Zero Population Growth, now Population Connection, political director; America Coming Together, founding member and treasurer; America Votes; American Rights at Work; and America's Families United. In addition to Pope's extensive organizational involvement, he also co-authored a book, ''Strategic Ignorance: Why the Bush Administration Is Recklessly Destroying a Century of Environmental Progress.'' The Sierra Club continues to maintain that it is an independent organization whose mission is solely ''to receive, administer, and disburse funds donated for tax-exempt, charitable, scientific, literary, and educational purposes.''

The Sierra Club has a history of endorsing candidates for political office. Currently, the Sierra Club has announced that it will support Senator Obama's (D–IL) presidential bid. While there is no reported activity yet from the organization, Sierra Club has been historically known to run television and radio advertisements both supporting their candidate and criticizing the opposition. Additionally, at the time of this report, Sierra Club announced its support of thirteen candidates for seats in the United States Senate. Of those thirteen candidates, none are Republicans. The organization has also announced its endorsement of one hundred and fifty-six candidates to the United State House of Representatives. Of the candidates, four are Republicans. Essentially, ninety-eight percent of Sierra Club's endorsements favor Democrat candidates.

GREENPEACE

Greenpeace USA presents itself as ''an independent campaigning organization that uses peaceful protest and creative communication to expose global environmental problems.'' With two hundred fifty thousand members in the United States (and 2.5 million worldwide) Greenpeace is represented by Greenpeace, Inc., a 501(c)(4) organization, and Greenpeace Fund, Inc., a 501(c)(3) organization. Through those organizations, Greenpeace reported that it had raised $11.5 million in 2006; its 501(c)(3) and (c)(4) collectively reported contributions of $26 million

for their 2006 tax filings (which extend past the 2006 year).

Greenpeace, like other environmental activist organizations has strong ties to other politically oriented groups. The chairman of the Board of Directors, Donald Ross, is involved in multiple organizations, including the LCV, where he is a board member. Ross is also the founder of M+R, a campaign strategy firm whose clients include, among others: Environmental Defense Fund, LCV, and the Democratic Congressional Campaign Committee. Greenpeace is also a client of Earthjustice, the legal entity which represents the Sierra Club, NRDC and Environmental Defense Fund. Additionally, Greenpeace remains officially affiliated with the Partnership Project, whose members also include Sierra Club, Environmental Defense Fund, NRDC and LCV. While Greenpeace may not make a Dirty Dozen list, or endorse hundreds of Democratic candidates, it is affiliated and supports the organizations that do. Furthermore, it represents those affiliations to the rest of the world.

ENVIRONMENTAL DEFENSE FUND

Environmental Defense Fund (EDF) describes itself as an organization that ''is dedicated to protecting the environmental rights of all people'' by using a scientific approach that is ''nonpartisan, cost-effective and fair.'' Environmental Defense Fund is represented by its family of organizations, Environmental Defense, Inc., a 501(c)(3) organization, and Environmental Defense Action Fund, Inc., a 501(c)(4) organization.

EDF is also intimately connected with other environmental and political organizations. Frank E. Loy, Environmental Defense Fund's chairman of the board, served as Clinton's Under Secretary of State for Global Affairs. Until 2006, Teresa Heinz, wife of Sen. John Kerry (D-MA), served on the board of trustees for EDF. Heinz is also the current chairman of Heinz Endowments, a part of the Heinz Family Foundation, one of the nation's twenty-five largest charitable foundations. This report will discuss the Heinz Foundation's activities in more detail later. Current EDF trustee George Woodwell also serves on the board of the NRDC.

Additionally, the trustees of EDF are connected with partisan activities. Trustee Frank Loy currently serves as one of Senator Obama's ''top environmental advisers'' for the 2008 Presidential Campaign. This past year, trustee Douglas Shorenstein donated $272,100 to Democratic political objectives, including the Hillary Clinton and Al Franken campaigns. Trustee Joanne Woodward, wife of noted Hollywood star Paul Newman, donated significantly to both the Clinton and Obama campaigns.

EDF reported raising $71.8 million for the 2006 calendar year, and reported receiving contributions totaling more than $94 million during the 2006 IRS filing period (which extends beyond the 2006 calendar year). Of that amount, the organization spent $18.9 million to promote their stance on climate change issues, and $19.5 collectively on land and ocean environmental issues.

FOUNDATIONS

All of the above groups receive a significant amount of their funds from foundations that regularly give to groups with allied interests. Note that each foundation and charity mentioned is also organized as a 501(c)(3) and is not able to engage in campaign activities. These foundations, however, do not have to make meaningful disclosures about the purpose of their donations and grants or what happens to the money after it is donated. Therefore, tracking such funds is impossible. Many times these foundations donate significant funds to other foundations who in turn donate significantly to environmental groups. The Tides Foundation has a history of making donations and grants to every environmental group mentioned in this report. While neither the Pew Charitable Trust nor the Heinz family of foundations has given directly to all five mentioned groups, they have donated millions to Tides, creating an interlocking system of money-changing, with no transparency.

The following are a few of the foundations that regularly give to environmental activist, ''nonpartisan,'' groups such as those mentioned above.

Pew Charitable Trusts

Made up of seven different charities, the Pew Charitable Trusts claims that it is an ''independent nonprofit'' that ''applies a rigorous, analytical approach to improve public policy, inform the public and stimulate civic life.'' In 2004, Pew made the switch from a private foundation to a public charity in order to provide the organization more flexibility and range in their efforts. The switch to a public charity gives Pew the ability to lobby on the federal and state level, and combine certain resources required to be separate when Pew was operating as a private foundation.

The switch to public charity also allows the organization to spend the money generated on issues and in sectors not originally intended by its founders. According to a 2004 Wall Street Journal article, the foundation was set up ''to disburse money to charities and research that the founders believed reflected their values and priorities,'' not to venture into the whims of the current directors.

The change in Pew's status allows the organization to pursue more partisan activities than it had undertaken previously. The Wall Street Journal article highlighted that Pew, because of its status shift, would now be able to spend five percent of its budget on lobbying efforts, funding ''a lot of K Street lunches.'' With a $4 billion budget, that means that Pew can spend $200 million in lobbying. This means that ''Pew's shift promises to have a seismic impact on the foundation and political worlds.''

Since the shift, Pew has given a substantial amount of money to environmental activist groups directly, and through other private funds that finance those groups. Pew contributed $431,000 to EDF; $900,000 to NRDC; and $700,000 to the Partnership Project, which is a joint venture of the nation's leading environmental groups. The Partnership Project's membership includes such names as LCV, EDF, NRDC, Greenpeace, and Sierra Club. Additionally, Pew gave more than $7 million to the Tides Foundation. During that time, the Tides Foundation contributed a collective $1.8 million to the following organizations: EDF, LCV, Greenpeace, NRDC, and Sierra Club.

Heinz Foundations

Based in Pittsburgh, the Heinz family of foundations is made up of several different foundations. Two of the major organizations within this empire are the Heinz Endowments, and the Heinz Family Philanthropies (hereinafter collectively referred to as ''Heinz''). In 2006, the Heinz Endowments combined the Howard Heinz Endowment and the Vira I. Heinz Endowment, two of the Heinz foundations more major funds, with a common purpose ''to develop solutions that are national in scope.'' The Heinz Family Philanthropies are made up of three funds: The Teresa and H. John Heinz III Foundation, the H. John Heinz III Foundation, and the Heinz Family Foundation. The Philanthropies focus on three key issues: healthcare and the elderly, environment concerns, and advancing female opportunities in the workplace.

At the center of the Heinz empire is Teresa Heinz. She is the current chairman of both the Heinz Endowments and the Heinz Family Philanthropies. As previously stated, Ms. Heinz, wife of Sen. John Kerry (D–MA), is known for her environmental and political activities. When her husband ran for President in 2004, the LCV publicly endorsed him—the earliest the organization had ever endorsed a Presidential candidate. LCV had previously received more than $57,000 from Heinz donations, but made the assertion that the money had no effect on their endorsement. Ms. Heinz oversees more than $1.5 billion of Heinz foundation resources.

Heinz, like Pew, has a history of giving both to environmental organizations individually, as well as to other funds and private foundations that also donate significant sums to environmental activists. Last year alone, Heinz gave $160,000 to NRDC directly. Since 2002, Heinz has given a total of $740,000 to EDF, LCV, and NRDC specifically. Over the past five years, Heinz has also given $3.8 million to Tides. Tides, as previously stated, has donated significantly to all five of the mentioned environmental organizations, and receives a bulk of their funds from foundations such as Heinz.

Turner Foundation

Founded in 1990 by Ted Turner, the Turner Foundation is a self-proclaimed ''private, independent family foundation committed to preventing damage to the natural—water, air, and land—on which all life depends.'' Since 1991, the Turner Foundation has reported giving out $297.6 million in grants to organizations ''aimed at creating a better world.'' In its 2006 filing, the Turner Foundation raised more than $12 million and contributed more than $8.6 million in grants.

The Turner Foundation focuses its philanthropic efforts almost solely on environmental pursuits. In 2001, for instance, Ted Turner co-founded the ''Nuclear Threat Initiative,'' with former Democratic Senator Sam Nunn, to combat the growing nuclear threat. In addition, the Foundation has historically undertaken ''special projects'' which include the League of Conservation Voters Education Fund and the Partnership Project.

Since 2002, the Turner Foundation has contributed more than $2.9 million to the Partnership Project. The Turner Foundation also contributed significant sums to several of the mentioned members individually. Since 2002, the Turner Foundation has given more than $1 million to the NRDC; $778,875 to EDF; and $6.7 million to the LCV Education Fund.

CONCLUSION

This report by no means paints a complete picture of environmental activism and its political and financial ties to election politics. There are additional activities that the environmental groups mentioned participated in, and additional organizations that the foundations mentioned funded. Each of the groups cited, including the foundations, are represented by a 501(c)(3) organization. Under this structure, these organizations collect funds from individual donors by representing themselves as unbiased, objective, and nonpartisan. They are able to amass wealth because those funds are tax-deductible to their donors.

Each of these organizations has also, both individually and collectively, given numerous examples of their partisanship activities. The LCV is, by its very nature, a partisan organization. Additionally, its history has shown it to consistently favor Democratic candidates. It is closely followed by the Sierra Club, which is currently only giving two percent of its support to Republican candidates this year. The NRDC has gone on television showing its support for a Democratic

Senator. EDF has a board comprised of publicly-disclosed advisors and financial supporters to the Senator Barack Obama Presidential Campaign. Greenpeace, aside from being affiliated with all the above organizations, is chaired by a man who is directly associated with the Democratic Congressional Campaign Committee. Furthermore, all of these organizations are associated with each other through the Partnership Project, which has consistently supported the Democratic environmental platform.

In conclusion, as we turn to another election year, these environmental groups continue to campaign in much the same manner. With a presidential campaign in full swing, these organizations and foundations are likely to wield an even bigger sword than in years previous. Yet for all of the activities that take place, both those mentioned above and others, these groups remain unchecked. They continue to do business under the scope of charitable organizations. While it is not likely that their partisan habits are going to change, the public should see these nonprofits for what they are, and what they stand for.

Because of the complicated web of 501(c), 527, and PAC organizations, it is clear that individuals who donate to a 501(c)(3) organization intending to contribute to the cause of the organization, have no clear mechanism for verifying that their donation was used for the cause. Unsuspectingly, these donors may be contributing to partisan activities when they originally intended their donation to aide an environmental cause. Additionally, there is not sufficient oversight over these organizations to police their political and campaign activities.

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

Mr. BINGAMAN. Mr. President, let me state my understanding of how we are going to proceed now. I believe, in the spirit of going back and forth, the Senator from Colorado has indicated he would agree that I can go ahead and speak for up to 10 minutes as in morning business; that he is going to be requesting 15 minutes to speak. At that time, if Senator FEINGOLD is here, I know he wanted to speak, too, and Senator BOND has been waiting and wants to speak.

I gather maybe I should do a unanimous consent at this point that I be allowed to speak for up to 10 minutes and then Senator ALLARD be allowed to speak for up to 15 minutes.

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

Mr. BOND. Mr. President, I ask unanimous consent that I be permitted to speak for 10 minutes after Senator ALLARD.

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

The Senator from New Mexico is recognized.

ENERGY

Mr. BINGAMAN. Mr. President, let me take a few minutes to discuss what we have been able to do with regard to energy policy in this Congress and discuss where I believe we are headed in the next Congress.

We began this Congress having passed, in mid-2005, the first comprehensive Energy Policy Act in 13 years.

Mr. President, could I be advised when 8 of my 10 minutes has been used?

The PRESIDING OFFICER. The Senator will be notified.

Mr. BINGAMAN. We passed the Energy Policy Act of 2005. That bill was about 5 years in the making. It only became law because the chairman of the Energy Committee at that time, Senator DOMENICI, took it upon himself to work constructively across the aisle with Democrats, myself and others, to put forward a bill both sides could embrace. In the first session of this Congress, we followed up with a new comprehensive energy bill, the Energy Independence and Security Act of 2007. That bill was also the result of a strong bipartisan effort.

President Bush helped by putting forth some important policy initiatives in his 2007 State of the Union speech, calling for more production of alternative transportation fuels and for higher fuel economy standards.

In the Senate Energy Committee, we were able to report a strong energy bill that formed the basis for Senate action with a large bipartisan majority. Other committees played a major role in different parts of that legislation as well.

After a long and difficult process with the House, we were able to come to closure on a financial piece of bipartisan legislation that the President signed in December of last year.

The Energy Policy Act of 2005 was a good piece of legislation. The Energy Independence and Security Act of 2007 was an even better piece of legislation. Throughout much of 2008, energy issues have been surrounded, unfortunately, by more partisan rancor as energy emerged as a key concern for voters as an issue on the campaign trial.

This is an important reason why, despite so much floor discussion of energy and energy-related topics, we do not have as much to show as a result of our efforts as I would like.

When energy issues become politicized along party lines, it is clear the Senate loses its ability to act in an effective way. I am pleased that in the past few weeks we have begun to find a bipartisan way forward on energy again. We have put together an energy tax incentive package that has won very broad bipartisan support in the Senate. It passed with a margin of 93 to 2.

The efforts of leadership, Senator REID in the Senate, Senator MCCONNELL, Senator BAUCUS, Senator GRASSLEY, and many others helped to put this legislative package together. Also, we have made some significant bipartisan progress on energy policy in the continuing resolution, which I believe is coming up for consideration in the Senate very soon.

The moratorium on offshore oil and gas exploration has been lifted for much of the Outer Continental Shelf. That is a development I support. We have also fully funded the direct loan program for retooling the auto industry, permitting up to $25 billion in loans to be made to help move our transportation sector into a cleaner and more energy-efficient future.

This is important to our future national economic security. I hope all these accomplishments make it across the finish line and actually become law in the next few days. If they do, they will help set the stage for what I believe to be a reemergence of bipartisanship on energy after the election is behind us and as we reconvene this next year as the 111th Congress.

I wish to make clear this morning my intention to push early and hard in the new Congress to renew our commitment to an effective, bipartisan, and comprehensive approach to energy policy. Despite the successes we have had in this Congress, and in the past, there is a great deal of work that remains to be done in order to secure our energy future, an energy future that is adequate and affordable and clean.

Let me talk about a few of the energy challenges we face in the next Congress and that I hope to work on with my colleagues both on the Democratic and Republican side. We have a real need to work on the deployment of new energy technologies of all kinds, particularly with the growing concern about global warming.

We need to make sure we are developing and putting in place a new generation of clean, low-carbon energy technologies. These technologies include renewable energy, and carbon capture, transportation and storage and other low-carbon technologies relevant to the nuclear power industry.

There is a global clean-tech revolution we can either lead in or we can miss out on. I believe we need to make the investments here in the United States to be leaders in this revolution.

Along with new clean energy technologies, we will need a modernized energy infrastructure to make sure clean energy can be transported or transmitted from wherever it is generated to wherever it is needed. Without a major new focus on putting in place a 21st century energy infrastructure, we will not be able to make the progress we need to make to secure our energy security goals and our climate security goals.

Along with new sources of energy, we need to make much more progress on using energy wisely and efficiently. A major focus of our effort needs to be made in the transportation sector. Many in the Senate have talked about the need for another Manhattan Project or another Apollo Project.

While I recognize that a different committee, the Committee on Commerce and Science and Transportation, is largely responsible for regulatory standards on fuel economy, there is a great deal our committee, the Energy and Natural Resources Committee, can do to make sure we have the right technology push for advanced vehicles. I see that as a focus of our work in the next Congress as well.

We need to do more to improve energy usage in manufacturing, buildings

and commercial equipment and appliances. Our investments in these areas have been totally inadequate over the past decade. Our investments in new energy technologies and innovation, new energy science and engineering, on training the next generation of energy researchers and technicians have been inadequate.

Finally, we need to include the functioning of our Federal agencies and programs related to energy across the board. We need to develop real strengths in the Federal Government in terms of working with entrepreneurs and industry and markets in commercializing new energy technologies.

One other area we obviously need to put a focus on is the area of the recent scandals in the Minerals Management Service. This indicates that a thorough examination is needed as to how that agency currently functions, how its programs can be reformed so the taxpayers get the value they deserve from the Federal oil and gas resources.

The PRESIDING OFFICER (Mr. TESTER). The Senator has used 8 minutes.

Mr. BINGAMAN. I appreciate that notification. My colleague from Alaska, the very valued senior member of our committee, Senator MURKOWSKI, is here and wanted to make a few comments about our plans for the upcoming Congress.

I very much welcome her strong support for a bipartisanship effort, and I yield the balance of my 10 minutes to her.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Ms. MURKOWSKI. Mr. President, I am pleased to be here to follow up on the comments from the chairman of the Energy Committee.

As one of the senior members on the committee, I have had an opportunity to work with him and Ranking Member DOMENICI on many of the issues he has talked about, as we have tried to advance energy policies for the country. One of the things we recognize on the committee historically is there has been a very good, strong, bipartisan relationship, working together to advance policy goals. The point has been made that perhaps politics has intervened as we have tried to advance some policies of late. I would like to think that as we begin a new Congress next year, with the initiative before us that this country needs and deserves a good, comprehensive energy policy that works for the Nation, that gets us to a point that allows for a level of energy security for us, that we will do so in a way that is cooperative, collaborative, and that allows us to move the technologies and advance the infrastructure that is necessary, that allows us to have policies in place that not only provide for increased domestic production but renewables and alternatives, with a focus on conservation—truly an energy policy that works. I look forward to working with the chairman in advancing these goals.

I thank the Chair.

Mr. FEINGOLD. I ask unanimous consent that after the remarks of Senator ALLARD and Senator BOND, I be recognized for 30 minutes.

Mr. ALLARD. Mr. President, I object. Senator BOND had already asked for time.

Mr. FEINGOLD. I said after Senator ALLARD and Senator BOND.

Mr. ALLARD. No objection.

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

The Senator from Colorado is recognized for 15 minutes.

Mr. ALLARD. Mr. President, I thank the Senator from New Mexico, Mr. BINGAMAN, for his leadership on energy, and also the Senator from Alaska, Ms. MURKOWSKI, for her leadership, as well as Republican Senator PETE DOMENICI for his very strong leadership on energy over the last number of years. This is an issue that is extremely important to the country. I rise to talk about energy policy and some of the thoughts I have been talking about since coming to the Senate. It is important that we get the solution right.

I fully support what the Senator from New Mexico talked about, the three goals he outlined for the next Congress. I will not be here. I am retiring voluntarily. But I do support those goals. I hope we continue to follow through with those goals; that is, an adequate supply of energy, affordable, and that we have a clean source of energy to begin to address some of our environmental problems.

When I first came to the Senate from the House of Representatives, I had been a member of the renewable energy caucus. I came over to the Senate and discovered that we did not have a renewable energy caucus to support the staff and Members of this body. I began the process of establishing a renewable energy caucus because I had come to realize that not only was a balanced energy policy good for the State of Colorado but also for the Nation.

In the State of Colorado, we have the Renewable Energy Laboratory, which was focusing on new technology, whose main effort was to move that technology—not only to discover it but also to move it to market. That is an important step that happens so often in the research world. Nobody looks at the practical aspect of moving scientific discoveries into a market that will really serve the people.

This is a fabulous agency we have, a research agency in Colorado. It naturally came on my shoulders to begin to organize the Senate renewable energy caucus. We did this in a bipartisan manner. We were able to get leadership from the Democratic Party to join me. As cochairmen, we promoted the Senate renewable energy caucus. Over the years, the membership built up. Our programs got stronger with the support of renewable energy labs as well as support from renewable energy industries and businesses throughout the country.

As time went on, we had a change in administration from President Clinton over to President Bush. At the time, he was very strongly in favor of the oil and gas industry and perhaps did not appreciate what was going to be brought to the table with renewable energy. I had to spend some time trying to convince this Republican administration that it needed to appreciate a little more what renewable energy technology was going to bring to this country, now and in the future.

When first coming to the Senate, I always believed we needed to eventually get to a renewable energy economy, but we needed to do it in a way that wouldn't destroy the economy. In other words, initially we had to support new energy development—whether it was in hydrocarbons or other sources of energy, whether it was nuclear, whether it was coal, whatever—but we could not afford to take anything off the table because we had to establish a bridge between older technology built on hydrocarbons, an economy built on that, and build that into sort of the new stage of energy independence. This is not something I was trying to think about in the last year or two when we had the energy crisis, but something I have been working on since coming to the Senate, thinking that we needed to have that balance, that it was important for us to move forward.

Eventually, the Bush administration became very supportive of renewable energy. I am delighted to have them understand the importance of renewable energy and what needs to be done as far as nuclear power.

On nuclear power, by the way, we have lost our infrastructure. A lot of technicians who know how to operate nuclear powerplants, we have lost, and we have exported our technology to France and England. I have gone to those facilities and visited with them. They have been supporting nuclear power, which allowed them to sign on to treaties like the Kyoto Treaty which we did not pass in this Congress by a very large margin because we understood that this country was not ready to move forward yet. We understood at that time that we were exempting big polluters in the world such as China and India.

We need to get ready because we need to be prepared to compete in a world where the source of energy is going to be changing.

I continued to press for oil and gas development, which is important to the economy of Colorado. It was important to the economy of this country when I first came here, and it remains so. It is with interest that I looked at the public employees' retirement accounts in the State of Colorado. These are State employees. It is a retirement plan with growth built on the stock market. A large percentage of their investments today are in oil and gas. So if we walk away from oil and gas development in the State of Colorado, we would severely impact the retirement incomes of many of our State employees.

We need to keep in mind how important oil and gas still is to the economy

and to retirement benefits. There are mandates in States such as Colorado that say you have to invest those dollars in those areas where you can get a good return. So by law in the State of Colorado, they have to invest in oil and gas companies because they have a good, safe return. That is probably going to be there for some time.

Clean coal, obviously, in Colorado and in the country remains important. Clean coal in Colorado is used to dilute the softer coals so that mainly communities on the eastern seaboard can meet their air pollution requirements. We still have a need for that very inexpensive source of energy, and we should not ignore it.

There are proposals to convert oil to liquids, which is extremely important from a national defense standpoint. I know the Defense Department is looking at this kind of technology so they can have a reserve available in times of war or if, for some reason or other, this country's reserve should be disrupted, pretty much like the naval oil reserve we used to have in Colorado, which is now referred to as the Roan Plateau, where much of our oil shale is today.

Natural gas remains important. Again, we are giving in to the lower carbons which burn very cleanly. Colorado State University, which I attended, is doing some remarkable research where they are growing algae now that will grow and develop a diesel fuel. It is a biofuel. We have a company in Berthoud, CO, to the south of where I live that has taken the grease from restaurants and converted it to a diesel fuel. This not only helps us get rid of a very problematic sort of discharge that we have from restaurants, but it converts it into fuel. The exciting thing about this company is they can operate without subsidies. To me, that is really exciting. I hope we can continue to get more companies of this nature to begin to work without having to lean on the Government for the subsidies.

We are all familiar with ethanol and how that has developed over time. There is a lot that can be done. We have talked about hydrocarbons.

There is a lot that can be done in renewables. I see that development happening in the State of Colorado.

We have communities that are using geothermal energy. This is where they run pipes down into the ground. It provides either cooling and/or heating into a building structure. It takes a certain type of geology for that technology to work, but there are many areas in this country where that can work. The environmental community doesn't like to talk about hydroelectric power, but it is a renewable energy, and it is something we should not forget. There are times when it is very applicable to use hydroelectric power.

We have a large wind area in the Midwest involving Texas and Colorado and Wyoming and Montana, parts of Nebraska, Utah, Nevada. These areas are being looked at for wind technology. We have been hearing about it throughout these debates.

Solar and hydrogen are two things that work well.

Obviously, we have legislation dealing with conservation and battery technology. Senator BINGAMAN talked about the Energy bill of 2005. We promoted all this to happen in that Energy bill.

I was extremely disappointed when last year's appropriations bill had a rider in it that prevented us from developing Outer Continental Shelf oil resources as well as oil shale in the State of Colorado. Oil shale in Colorado is one of the largest potential reserves we have of hydrocarbon fuel in the world. It is larger than all the known reserves in Saudi Arabia. We should not mark that off. When we start disregarding sources of energy, we run the potential of breaking down that bridge that we need from traditional fuels to where we need to be in the future with renewable sources.

Each year, we send over $700 billion overseas for fuel. Much of this money goes to nations that are on less than friendly terms with the United States. For both economic and national security reasons, achieving energy independence should be one of our top priorities.

Yesterday, the House of Representatives took a step in the right direction by approving legislation which would repeal the moratorium on offshore drilling and on issuing oil shale regulations. This is an important step that Republicans in the House and Senate have been championing. Lifting the moratorium on the Outer Continental Shelf will allow access to an estimated 18 billion barrels of oil and 76 trillion cubic feet of natural gas. Lifting the moratorium on oil shale regulations moves us one step closer to being able to access an estimated 800 billion barrels of potentially recoverable oil. That is more than the proven reserves, as I mentioned earlier, of Saudi Arabia. It is one of the largest reserves in the world.

Taking these steps to increase our energy supply could not come at a better time. Families across America are struggling with high fuel prices. The cooler temperatures of fall are also making folks worry about how the cost of home heating fuel is going to affect their ability to make it through the winter.

As the Senate takes up the continuing resolution that was worked on by the House yesterday, I am hopeful my colleagues will consider this. I am not saying drilling is the only answer to our energy needs. As a founder and cochair of the Senate renewable energy caucus, I know the importance of using renewable energy. I was pleased the Senate passed legislation yesterday that extended many important renewable energy tax incentives.

I am a strong supporter of renewable energy, but we are not at a point yet where renewable energy can meet all our energy needs. We still need fossil fuels, which is why I support removing the Outer Continental Shelf and oil shale moratoriums. With millions of Americans struggling with high fuel prices, it is imperative that the Senate pass a continuing resolution that does not contain these misguided moratoria.

So I ask my colleagues to join me in working for a balanced energy policy for this country that will not only help mean a more secure America from a military aspect but also a more secure America from an economic aspect. I urge my colleagues to join me in that effort in the closing days of this session.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, while he is on the floor, I commend and thank the Senator from Colorado, Mr. ALLARD, for the great work he has done on housing. I commend him also for his great leadership on all aspects of energy. I join with him in recognizing the great contributions of Chairman BINGAMAN, Senator MURKOWSKI, and, of course, Senator DOMENICI. We will miss his guidance and his leadership. But he has made a great contribution, and we are most appreciative.

Mr. ALLARD. Mr. President, I thank the Senator from Missouri for his comments and recognize his leadership, particularly on housing issues, and I think he has some great ideas he is bringing forward.

FINANCIAL CRISIS

Mr. BOND. Mr. President, America is facing a financial crisis, and last night the President made the case for immediate action. It is critical we act now to protect jobs in Missouri and throughout the Nation. It is critical we act now to keep families' checking and college savings accounts safe. It is critical we act now to preserve seniors' retirements. It is critical we act now and eliminate this very real threat to our economy. If we do not solve this crisis, families will not be able to get home or car loans, employers will not get the day-to-day operating funds they need to meet payroll, the possibility of new jobs will grind to a halt as spending and investment stops.

To fail to act is not an option. We must act now, but we must act responsibly. Any rescue plan Congress approves to stabilize our financial system must also increase accountability so we do not reward those who put us in this situation. Any rescue plan Congress approves must increase oversight so taxpayer dollars are protected and mistakes are not repeated. And any rescue plan Congress approves must increase transparency so Americans can know their money is safe.

I have heard from folks in my home State of Missouri, and they want their Government to act now to keep this crisis from spreading from Wall Street to Main Street. But the folks in Missouri also want to know what their

Government is going to do to protect their tax dollars.

I have heard from hundreds of Missourians, probably thousands, now calling my office in DC, and in St. Louis, Kansas City, Cape Girardeau, Columbia, Springfield, and Jefferson City. All of these people want accountability.

They want to know their tax dollars are not going to be used to bail out irresponsible executives who got us into this mess to begin with. These Missourians know that when they lose a lot of money at their jobs, they lose their jobs and they do not get bonuses for doing it, which is why from the start I have been calling on the administration to eliminate golden parachutes—no tax dollars for fat severance packages for failed executives. I was glad to hear last night the President state he now agrees. This is an important step in crafting a responsible plan.

I have also stressed that there must be independent oversight of how the Treasury handles the credit we extend. I will not agree to hand over a blank check. I was pleased that the President now agrees there must be oversight. That is another important step in crafting a responsible plan. We also need to get taxpayer equity in participating firms. Taxpayers should get something for their money.

Accountability and oversight, protecting taxpayer dollars—these are Main Street values. These are values that were absent on Wall Street when excessive greed and abuse of regulatory loopholes led to this crisis. These are also values that were absent when investors entered into investments they did not understand and some private citizens took on debt they could not afford.

We must restore the Main Street values in Government, on Wall Street, and in our private lives. We must also restore bipartisanship. I have come to the floor a number of times to urge my colleagues to work together across the aisle to solve this crisis for our Nation. Now is not the time for partisan finger-pointing or partisan games. I have been disappointed to hear many speeches on the floor, with political talking points and in the press. Now is the time for quick and responsible bipartisan action that will stabilize our economy, protect taxpayers, restore accountability, and increase oversight to prevent another emergency in the future.

While it is critical that we act now to address the financial crisis, we also must look to long-term reforms to prevent another crisis in the future. I have long been an advocate for stronger oversight of Fannie Mae and Freddie Mac and a critic of those who were moving too slow to impose reforms of Fannie and Freddie. I have said there must be more effective oversight of GSEs.

But there is also another problem we need to address. I mentioned that along with other things in the remarks I made last week, saying what changes need to be made by legislation and by administrative action and regulatory action.

(The remarks of Mr. BOND pertaining to the introduction of S. 3581 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BOND. Mr. President, I thank the Presiding Officer, and I appreciate the forbearance of my colleague from Wisconsin.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Missouri.

RESTORING THE RULE OF LAW

Mr. FEINGOLD. Mr. President, last week we celebrated the 221st anniversary of the day in 1787 when 39 members of the Constitutional Convention signed the Constitution in Philadelphia. It is a sad fact, as we consider that anniversary, that for the past 7½ years, and especially since 9/11, the Bush administration has treated the Constitution and the rule of law with a disrespect never before seen in the history of this country.

By now, the public can be excused for being almost numb to new revelations of Government wrongdoing and overreaching. The catalog is really breathtaking, even when immensely complicated and far-reaching programs and events are reduced to simple catch phrases: torture, Guantanamo, ignoring the Geneva Conventions, warrantless wiretapping, data mining, destruction of e-mails, U.S. attorney firings, stonewalling of congressional oversight, abuse of the state secrets doctrine and executive privilege, secret abrogation of Executive orders, signing statements.

This is a shameful legacy that will haunt our country for years to come. That is why I believe so strongly that the next President of the United States—whoever that may be—must pledge his commitment to restoring the rule of law in this country and then take the necessary steps to demonstrate that commitment. That is why, also, I held a hearing last week in the Constitution Subcommittee of the Senate Judiciary Committee asking a range of legal and historical experts exactly what the new President and the new Congress must do to repair the damage done by the current administration to the rule of law.

There can be no dispute that the rule of law is central to our democracy and our system of government. But what does ''the rule of law'' really mean? Well, as Thomas Paine said, in 1776:

> In America, the law is king.

That, of course, was a truly revolutionary concept at a time when, in many places, the kings were the law. But more then 200 years later, we still must struggle to fulfill Paine's simply stated vision. It is not always easy, nor is it something that, once done, need not be carefully maintained.

Justice Frankfurter wrote that law:

> . . . .is an enveloping and permeating habituation of behavior, reflecting the counsels of reason on the part of those entrusted with power in reconciling the pressures of conflicting interests. Once we conceive ''the rule of law'' as embracing the whole range of presuppositions on which government is conducted . . . , the relevant question is not, has it been achieved, but, is it conscientiously and systematically pursued.

The post-September 11 period is not, of course, the first time that the checks and balances of our system of government have been placed under great strain. As Berkeley law professors Daniel Farber and Anne Joseph O'Connell wrote in testimony submitted for the hearing on this topic:

> The greatest constitutional crisis in our history came with the Civil War, which tested the nature of the Union, the scope of presidential power, and the extent of liberty that can survive in war time.

But as legal scholar Louis Fisher of the Library of Congress described in his testimony, President Lincoln pursued a much different approach than our current President when he believed he needed to act in an extra-constitutional manner to save the Union. He acted openly, and sought Congress's participation and ultimately approval of his actions.

According to Dr. Fisher, Lincoln took actions we are all familiar with, including withdrawing funds from the Treasury without an appropriation, calling up the troops, placing a blockade on the South, and suspending the writ of habeas corpus. In ordering those actions, Lincoln never claimed to be acting legally or constitutionally and never argued that Article II somehow allowed him to do what he did. Instead, Lincoln admitted to exceeding the constitutional boundaries of his office and therefore needed the sanction of Congress. . . . He recognized that the superior lawmaking body was Congress, not the President.

Now, of course, each era brings its own challenges to the conscientious and systematic pursuit of the rule of law. How the leaders of our government respond to those challenges at the time they occur is, of course, critical. But recognizing that leaders do not always perform perfectly, that not every President is an Abraham Lincoln, the years that follow a crisis are perhaps even more important. As Yale Law School Dean Harold Koh testified at the hearing:

> As difficult as the last 7 years have been, they loom far less important in the grand scheme of things than the next 8, which will determine whether the pendulum of U.S. policy swings back from the extreme place to which it has been pushed, or stays stuck in a 'new normal' position under which our policies toward national security, law, and human rights remain wholly subsumed by the 'War on Terror.'

I could not agree more.

So the obvious question is: Where do we go from here? One of the most important things that the next President must do, whoever he may be, is take concrete steps to restore the rule of

law in this country. He must make sure that the excesses of this administration don't become so ingrained in our system that they change the very notion of what the law is. And he must recognize that we can protect our national security—in fact, we can do it more effectively—without trampling on the rights of the American people or the rule of law.

That, of course, is much easier said than done. But there is one immediate step that, while it may be viewed as symbolic, is critically important for the next President to take: stating clearly and unequivocally in the inaugural address that he renounces the current administration's abuses of executive power and that his administration will uphold the rule of law. To be sure, this isn't the only subject the new president should address, but it is among the most urgent. Where he stands on executive power goes beyond policy and politics and speaks to his respect for the Constitution itself. And a willingness to raise this issue in the inaugural address will send a message, loud and clear, to the American public, to Congress and to every level of government that the days of lawlessness and excess are over.

Thomas Jefferson said this in his first inaugural address:

> The essential principles of our Government form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation . . . [S]hould we wander from them in moments of error or of alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty and safety.

I hope our next President will echo that sentiment in his inaugural address. Indeed, demonstrating that commitment on day one will go a long way toward reinstating what Ohio State University Law Professor Peter Shane called a ''rule of law culture'' in government. As he explained in his hearing testimony:

> The written documents of law have to be buttressed by a set of norms, conventional expectations, and routine behaviors that lead officials to behave as if they are accountable to the public interest and to legitimate sources of legal and political authority at all times, even when the written rules are ambiguous and even when they could probably get away with merely self-serving behavior.

This cuts to the core of the problem that the next President will face: After 8 years of disregard for the rule of law at the highest level of government, how can we instill new norms and expectations throughout the Federal Government? Stating that commitment in the inaugural address will go a long way in that direction.

But it is not only a matter of a new President saying: Ok, I won't do that anymore. This President's transgressions are so deep and the damage to our system of government so extensive that a concerted effort from the executive and legislative branches will be needed. And that means the new President will, in some respects, have to go against his institutional interests—a challenge that we cannot underestimate.

That is why I called the hearing last week on this topic—to hear from legal and historical experts on how the next President should go about tackling the wreckage that this President will leave behind. I asked witnesses to be forward-looking—not to simply review what has gone wrong in the past 7 or 8 years, but to address very specifically what needs to be set right starting next year and how to go about doing it. In addition to the testimony of the witnesses at the hearing, I solicited written testimony from advocates, law professors, historians and other experts. I was pleased that we received nearly 30 written submissions from a host of national groups and distinguished individuals.

At the hearing, we heard testimony from one of the foremost legal scholars in the country about just how far outside mainstream legal thought the current administration went. We heard comparisons to the events leading up to the Church Committee's investigation in the 1970s, from the man who served as chief counsel to that committee. We heard from a former Republican Member of Congress about Congress's failure to assert itself as a coequal branch of government. We heard from the former head of the Justice Department's office of legal counsel about the perversion of the law that was allowed to occur in that important office. We heard from a former White House chief of staff about the dangers of the excessive executive secrecy that permeated the government under this administration. We heard from a leading national security lawyer about the harm that post–9/11 domestic surveillance policies have done to our national security. And we heard from the head of one of the leading human rights organizations about the damage our interrogation and detention policies have done to our reputation abroad.

But most importantly, we heard from every one of these individuals their specific prescriptions for moving beyond these mistakes—for taking the steps that are necessary to restore our core American principles.

Indeed, between the hearing witnesses and the written testimony that was submitted, the subcommittee received an enormous number of recommendations, including many provocative and important ideas. They range from the general to the very specific, and they cover a variety of subject matters, from government secrecy to detention and interrogation policy to surveillance to separation of powers. I am very pleased that so many experts took the time to offer these proposals.

Let me take a few minutes today to share some examples of the kinds of recommendations that the witnesses provided, both those who testified at the hearing and those who submitted written testimony. Several suggestions reinforce my belief that the new administration must set a clear tone of adherence to the rule of law from the start. Mark Agrast of the Center for American Progress Action Fund suggests that the President should convene a White House conference on the rule of law, and pledge to work with Congress to give priority to measures to restore public confidence in the rule of law. Former Solicitor General Walter Dellinger argues that:

> [T]he next President should . . . affirmatively adopt a view of presidential power that recognizes the roles and authorities of all three co-equal branches and that takes account of settled judicial precedent.

Many of our witnesses are concerned about the impact of the last 8 years on the separation of powers, and specifically about Congress's failure to stand up to the president as he asserted more and more unconstrained power. Several strongly suggest oversight and investigative hearings to determine what exactly happened. Frederick Schwarz of the Brennan Center suggests an independent, bipartisan, investigatory commission to assess what has gone wrong and what has gone right with the Nation's policies concerning terrorism. Such a commission would allow the public to get the full story of the abuses of the Bush administration, providing accountability and a mechanism for developing protections against future abuse that can be implemented by the executive and legislative branches. The ACLU suggests more narrowly focused oversight hearings in Congress to reveal illegal or improper executive branch activity, and argues that Congress must deny funding for programs it believes are abusive or illegal.

Former Congressman Mickey Edwards, a Republican from Oklahoma, also argues that Congress must use the power of the purse to assert its will in interbranch disagreements. He believes that Congress should aggressively utilize its subpoena power to get the information it needs. Being able to enforce congressional subpoenas, of course, is an important component of oversight, and several witnesses had suggestions on that topic. Common Cause believes that the next president should issue an Executive order mandating Federal agencies' complete cooperation with congressional investigations. University of Pennsylvania Law Professor Seth Kreimer argues that officials who ignored legitimate congressional subpoenas should be prosecuted. The Center for Responsibility and Ethics in Washington suggests that Congress enact legislation granting jurisdiction to the Federal courts over cases seeking enforcement of congressional subpoenas. And Bruce Fein, a former Reagan administration official, believes a special three-judge court should be created that could appoint an independent counsel to enforce contempt findings against the executive branch since the Department of Justice refused to enforce congressional subpoenas during this administration.

Many of the suggestions from our witnesses focus on the decisionmaking of our national security agencies. Stephen Aftergood of the Federation of American Scientists suggests enhancing oversight of intelligence agencies by using cleared auditors from the GAO. And Mark Agrast advocates establishing a national security law committee within the National Security Council to make decisions on legal issues related to national security.

A crucial part of restoring the rule of law in the next administration will be rebuilding the reputation of the office of legal counsel. Walter Dellinger, joined by a prestigious group of former OLC attorneys, provided detailed testimony on how that can be done. The incoming attorney general should pay very close heed to this advice.

Another issue that almost every person or group mentioned in their submissions is the problem of excessive government secrecy. This problem permeates all of the other rule of law issues discussed at the hearing. When the executive branch invokes the state secrets privilege to shut down lawsuits, hides its programs behind secret OLC opinions, overclassifies information to avoid public disclosure, and interprets the Freedom of Information Act as an information withholding statute, it shuts down all of the means to detect and respond to its abuses of the rule of law—whether those abuses involve torture, domestic spying, or the firing of U.S. attorneys for partisan gain.

With regard to this administration's overuse of the state secrets privilege, University of Chicago law professor Geoffrey Stone and many others recommend that Congress pass S. 2533, the State Secrets Protection Act, which was reported out of the Judiciary Committee in April. The bill takes the simple and obvious step of requiring courts to review allegedly privileged documents to determine whether they really are privileged.

To address the rampant problem of overclassification, several submissions, including that of John Podesta from the Center for American Progress Action Fund, urge the next President to rewrite the executive order on classification to reverse some of the changes made by President Bush to that order. In particular, President Bush eliminated provisions that established a presumption against classification in cases of significant doubt, that permitted senior agency officials to declassify information in exceptional cases where the public interest in disclosure outweighs the need to protect the information, and that prohibited reclassification of materials that have been released to the public. Contributors argue that these provisions be restored.

On the issue of secret OLC opinions and other manifestations of secret law, there is general agreement that legislation is needed to require greater disclosure of the law under which the executive branch operates. A number of submissions recommend the passage of 2 bills I introduced this year: the Executive Order Integrity Act, which requires the president to publish notice in the Federal Register when revoking or modifying a published Executive order, and the OLC Reporting Act, which requires the Attorney General to report to Congress when the Department of Justice concludes that the executive branch is not bound by a statute.

Finally, the National Security Archive and others address the proper standard for disclosure of information under the Freedom of Information Act. Attorney General Reno issued a memorandum in 1993 that contained a ''presumption of disclosure'': even if a document was technically exempt from disclosure under FOIA, the Department of Justice would defend the withholding only if disclosure would actually harm an interest protected by the exemption. Attorney General Ashcroft reversed that presumption in 2001. Contributors uniformly recommend that the new administration immediately restore the presumption of disclosure.

The subcommittee also received numerous recommendations for reforming our detention and interrogation policy. Detailed plans for accomplishing the difficult task of closing the detention facility at Guantanamo Bay were presented by Elisa Massimino of Human Rights First, by the Center for Strategic and International Studies, by Harold Koh, and by a group of 20 leading scholars. There is near- universal agreement that Guantanamo should be closed. These thoughtful proposals deserve careful consideration. A number of groups also recommend dismantling the current system of military commissions, and instead trying terrorist suspects in U.S. courts or military courts-martial.

With respect to interrogation practices, Princeton's Deborah Pearlstein and others argue that the U.S. Government should have a single, government-wide standard of humane detainee treatment. Massimino suggests that the President and the Congress should invest in efforts to pursue the most effective and humane means of intelligence gathering. And Harold Koh emphasizes the importance of fully complying with obligations under the Geneva Conventions and the Convention Against Torture.

And finally, a number of recommendations were made on government surveillance and privacy issues. National security lawyer Suzanne Spaulding argues that the next administration should undertake a comprehensive review of domestic intelligence activities and authorities, to assess their effectiveness and to ensure that they support, rather than undermine, the rule of law. She points to a number of key issues for review, many of which were also mentioned in other submissions as issues where changes need to be made.

These include the Foreign Intelligence Surveillance Act and the related amendments made this summer; national security letters and other Patriot Act authorities; the first amendment implications of domestic spying activities; data mining and other data collection and analysis activities; profiling in the name of counterterrorism; the appropriate role of the many Federal, State and local entities that are now involved in domestic intelligence gathering; and the need to enhance transparency and oversight in all of these areas. This is a long list, but Spaulding argues that too many of these powers were created piecemeal, without consideration of how they fit together and without adequate consideration for the need to respect civil liberties.

This is just a sampling of the careful and interesting proposals that the subcommittee received. Taken together, these recommendations should serve as an excellent source for both branches of government. While I am not at this ge time going to propose a specific plan of action to the next President or the next Congress, I am reviewing the legislative proposals that have been submitted, and I hope my colleagues will take advantage of them as well. I thank each and every person who made the effort to submit these recommendations. They have done this country a real service.

In January, I intend to present the full hearing record to the new President, and urge him to take specific actions to restore the rule of law. These recommendations should serve as a blueprint for the new President so that he can get started right away on this immense and extremely important job of restoring the rule of law.

It will not be easy. Even those steps that are almost universally agreed upon, such as the necessity of closing the facility at Guantanamo Bay, pose tricky legal and practical questions. And, of course, there may be institutional resistance within the executive branch to actions that are viewed as ceding power to the other branches of government, no matter how unprecedented the executive power theories that need to be undone. But as Suzanne Spaulding explained at the hearing:

> We have to demonstrate that we still believe what our founders understood; that this system of checks and balances and respect for civil liberties is not a luxury of peace and tranquility but was created in a time of great peril as the best hope for keeping this nation strong and resilient.

This is an important point, because the polices pursued by this administration have not kept this Nation ''strong and resilient.'' They have undermined national unity, diminished our international standing and alliances, and hurt our efforts to counter the serious threat we face from al-Qaida and its affiliates. By putting policies in place that accord with basic American principles, we can strengthen our national security as well.

As I said at the outset, it is the years that follow a crisis that may matter

most, that are the true test of the strength of our democracy. So I hope that the next President will carefully review the many recommendations that have been presented, because the future of our democracy depends on it.

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

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

The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. LEVIN pertaining to the introduction of S. 3577 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

SUPREME COURT POLICE ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 956, S. 3296.

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

The bill clerk read as follows:

A bill (S. 3296) to extend the authority of the United States Supreme Court Police to protect court officials off the Supreme Court Grounds and change the title of the Administrative Assistant to the Chief Justice.

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

Mr LEAHY. Mr. President, before the Senate is important legislation I introduced months ago to extend for 5 years the authority of the U.S. Supreme Court Police to protect Supreme Court Justices when they leave the Supreme Court grounds. Senator SPECTER cosponsored this measure with me. We have extended the Court police's authority to protect Justices before, the last time in 2004. This authority expires at the end of this year.

This is exactly the type of bill that should pass by unanimous consent without delay. I hotlined the bill and it was cleared on the Democratic side of the Senate for passage months ago, but I was told that there was a Republican objection. Although I would prefer to pass this measure clean, Senator KYL has insisted on adding an amendment. I will consent to this amendment because this bill needs to pass to extend the Supreme Court police's authority. The time for passage is now, without further delay.

Mr. REID. Mr. President, I ask unanimous consent that the Kyl amendment at the desk be agreed to; the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5645) was agreed to as follows:

(Purpose: To provide for a limitation on acceptance of honorary club memberships by justices and judges)

At the end of the bill, add the following:

SEC. 2. LIMITATION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.

(a) DEFINITIONS.—In this section:

(1) GIFT.—The term ''gift'' has the meaning given under section 109(5) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2) JUDICIAL OFFICER.—The term ''judicial officer'' has the meaning given under section 109(10) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(b) PROHIBITION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.—A judicial officer may not accept a gift of an honorary club membership with a value of more than $50 in any calendar year.

The bill (S. 3296), as amended, was ordered to be engrossed for a third reading, was read the third time, and pased, as follows:

S. 3296

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

SECTION 1. UNITED STATES SUPREME COURT POLICE AND COUNSELOR TO THE CHIEF JUSTICE.

(a) EXTENSION OF AUTHORITY OF THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.—Section 6121(b)(2) of title 40, United States Code, is amended by striking ''2008'' and inserting ''2013''.

(b) COUNSELOR TO THE CHIEF JUSTICE.—

(1) OFFICE OF FEDERAL JUDICIAL ADMINISTRATION.—Section 133(b)(2) of title 28, United States Code, is amended by striking ''administrative assistant'' and inserting ''Counselor''.

(2) JUDICIAL OFFICIAL.—Section 376(a) of title 28, United States Code, is amended—

(A) in paragraph (1)(E), by striking ''an administrative assistant'' and inserting ''a Counselor''; and

(B) in paragraph (2)(E), by striking ''an administrative assistant'' and inserting ''a Counselor''.

(3) ADMINISTRATIVE ASSISTANT TO THE CHIEF JUSTICE.—

(A) IN GENERAL.—Section 677 of title 28, United States Code, is amended—

(i) in the section heading, by striking ''**Administrative Assistant**'' and inserting ''**Counselor**'';

(ii) in subsection (a)—

(I) in the first sentence, by striking ''an Administrative Assistant'' and inserting ''a Counselor''; and

(II) in the second and third sentences, by striking ''Administrative Assistant'' each place that term appears and inserting ''Counselor''; and

(iii) in subsections (b) and (c), by striking ''Administrative Assistant'' each place that term appears and inserting ''Counselor''.

(B) TABLE OF SECTIONS.—The table of sections for chapter 45 of title 28, United States Code, is amended by striking the item relating to section 677 and inserting the following:

''677. Counselor to the Chief Justice.''.

SEC. 2. LIMITATION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.

(a) DEFINITIONS.—In this section:

(1) GIFT.—The term ''gift'' has the meaning given under section 109(5) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2) JUDICIAL OFFICER.—The term ''judicial officer'' has the meaning given under section 109(10) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(b) PROHIBITION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.—A judicial officer may not accept a gift of an honorary club membership with a value of more than $50 in any calendar year.

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of H.R. 2851 and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 2851) to amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

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

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

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

The bill (H.R. 2851) was ordered to a third reading, was read the third time, and passed.

QI PROGRAM SUPPLEMENTAL FUNDING ACT OF 2008

Mr. REID. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 3560 and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 3560) to amend title XIX of the Social Security Act to provide additional funds for the qualifying individual (QI) program, and for other purposes.

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

Mr. REID. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements related to the bill be printed in the RECORD.

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

The bill (S. 3560) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3560

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 ''QI Program Supplemental Funding Act of 2008''.

SEC. 2. FUNDING FOR THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

Section 1933(g)(2) of the Social Security Act (42 U.S.C. 1396u–3(g)(2)), as amended by section 111(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended—

(1) in subparagraph (I), by striking ''$300,000,000'' and inserting ''$315,000,000''; and

(2) in subparagraph (J), by striking ''$100,000,000'' and inserting ''$130,000,000''.

SEC. 3. MANDATORY USE OF STATE PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM (PARIS) PROJECT.

(a) IN GENERAL.—Section 1903(r) of the Social Security Act (42 U.S.C. 1396b(r)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting '', in addition to meeting the requirements of paragraph (3),'' after ''a State must''; and

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

''(3) In order to meet the requirements of this paragraph, a State must have in operation an eligibility determination system which provides for data matching through the Public Assistance Reporting Information System (PARIS) facilitated by the Secretary (or any successor system), including matching with medical assistance programs operated by other States.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) take effect on October 1, 2009.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 4. INCENTIVES FOR THE DEVELOPMENT OF, AND ACCESS TO, CERTAIN ANTIBIOTICS.

(a) IN GENERAL.—Section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) is amended by adding at the end the following:

''(v) ANTIBIOTIC DRUGS SUBMITTED BEFORE NOVEMBER 21, 1997.—

''(1) ANTIBIOTIC DRUGS APPROVED BEFORE NOVEMBER 21, 1997.—

''(A) IN GENERAL.—Notwithstanding any provision of the Food and Drug Administration Modernization Act of 1997 or any other provision of law, a sponsor of a drug that is the subject of an application described in subparagraph (B)(i) shall be eligible for, with respect to the drug, the 3-year exclusivity period referred to under clauses (iii) and (iv) of subsection (c)(3)(E) and under clauses (iii) and (iv) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable.

''(B) APPLICATION; ANTIBIOTIC DRUG DESCRIBED.—

''(i) APPLICATION.—An application described in this clause is an application for marketing submitted under this section after the date of the enactment of this subsection in which the drug that is the subject of the application contains an antibiotic drug described in clause (ii).

''(ii) ANTIBIOTIC DRUG.—An antibiotic drug described in this clause is an antibiotic drug that was the subject of an application approved by the Secretary under section 507 of this Act (as in effect before November 21, 1997).

''(2) ANTIBIOTIC DRUGS SUBMITTED BEFORE NOVEMBER 21, 1997, BUT NOT APPROVED.—

''(A) IN GENERAL.—Notwithstanding any provision of the Food and Drug Administration Modernization Act of 1997 or any other provision of law, a sponsor of a drug that is the subject of an application described in subparagraph (B)(i) may elect to be eligible for, with respect to the drug—

''(i)(I) the 3-year exclusivity period referred to under clauses (iii) and (iv) of subsection (c)(3)(E) and under clauses (iii) and (iv) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable; and

''(II) the 5-year exclusivity period referred to under clause (ii) of subsection (c)(3)(E) and under clause (ii) of subsection (j)(5)(F), subject to the requirements of such clauses, as applicable; or

''(ii) a patent term extension under section 156 of title 35, United States Code, subject to the requirements of such section.

''(B) APPLICATION; ANTIBIOTIC DRUG DESCRIBED.—

''(i) APPLICATION.—An application described in this clause is an application for marketing submitted under this section after the date of the enactment of this subsection in which the drug that is the subject of the application contains an antibiotic drug described in clause (ii).

''(ii) ANTIBIOTIC DRUG.—An antibiotic drug described in this clause is an antibiotic drug that was the subject of 1 or more applications received by the Secretary under section 507 of this Act (as in effect before November 21, 1997), none of which was approved by the Secretary under such section.

''(3) LIMITATIONS.—

''(A) EXCLUSIVITIES AND EXTENSIONS.—Paragraphs (1)(A) and (2)(A) shall not be construed to entitle a drug that is the subject of an approved application described in subparagraphs (1)(B)(i) or (2)(B)(i), as applicable, to any market exclusivities or patent extensions other than those exclusivities or extensions described in paragraph (1)(A) or (2)(A).

''(B) CONDITIONS OF USE.—Paragraphs (1)(A) and (2)(A)(i) shall not apply to any condition of use for which the drug referred to in subparagraph (1)(B)(i) or (2)(B)(i), as applicable, was approved before the date of the enactment of this subsection.

''(4) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding section 125, or any other provision, of the Food and Drug Administration Modernization Act of 1997, or any other provision of law, and subject to the limitations in paragraphs (1), (2), and (3), the provisions of the Drug Price Competition and Patent Term Restoration Act of 1984 shall apply to any drug subject to paragraph (1) or any drug with respect to which an election is made under paragraph (2)(A).''.

(b) TRANSITIONAL RULES.—

(1) With respect to a patent issued on or before the date of the enactment of this Act, any patent information required to be filed with the Secretary of Health and Human Services under subsection (b)(1) or (c)(2) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) to be listed on a drug to which subsection (v)(1) of such section 505 (as added by this section) applies shall be filed with the Secretary not later than 60 days after the date of the enactment of this Act.

(2) With respect to any patent information referred to in paragraph (1) of this subsection that is filed with the Secretary within the 60-day period after the date of the enactment of this Act, the Secretary shall publish such information in the electronic version of the list referred to at section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)) as soon as it is received, but in no event later than the date that is 90 days after the enactment of this Act.

(3) With respect to any patent information referred to in paragraph (1) that is filed with the Secretary within the 60-day period after the date of enactment of this Act, each applicant that, not later than 120 days after the date of the enactment of this Act, amends an application that is, on or before the date of the enactment of this Act, a substantially complete application (as defined in paragraph (5)(B)(iv) of section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j))) to contain a certification described in paragraph (2)(A)(vii)(IV) of such section 505(j) with respect to that patent shall be deemed to be a first applicant (as defined in paragraph (5)(B)(iv) of such section 505(j)).

SEC. 5. CLARIFICATION OF AUTHORITY FOR USE OF MEDICAID INTEGRITY PROGRAM FUNDS.

(a) CLARIFICATION OF AUTHORITY FOR USE OF FUNDS.—

(1) IN GENERAL.—Section 1936 of the Social Security Act (42 U.S.C. 1396u–6) is amended—

(A) in subsection (b)(4), by striking ''Education of'' and inserting ''Education or training, including at such national, State, or regional conferences as the Secretary may establish, of State or local officers, employees, or independent contractors responsible for the administration or the supervision of the administration of the State plan under this title,''; and

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

''(2) AVAILABILITY; AUTHORITY FOR USE OF FUNDS.—

''(A) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

''(B) AUTHORITY FOR USE OF FUNDS FOR TRANSPORTATION AND TRAVEL EXPENSES FOR ATTENDEES AT EDUCATION, TRAINING, OR CONSULTATIVE ACTIVITIES.—

''(i) IN GENERAL.—The Secretary may use amounts appropriated pursuant to paragraph (1) to pay for transportation and the travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business, of individuals described in subsection (b)(4) who attend education, training, or consultative activities conducted under the authority of that subsection.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of section 1936 of the Social Security Act, as added by section 6034(a) of the Deficit Reduction Act of 2005 (Public Law 109–171).

(b) PUBLIC DISCLOSURE.—

(1) IN GENERAL.—Section 1936(e)(2)(B) of such Act (42 U.S.C. 1396u–6(e)(2)(B)), as added by subsection (a) of this section, is amended by adding at the end the following:

''(ii) PUBLIC DISCLOSURE.—The Secretary shall make available on a website of the Centers for Medicare & Medicaid Services that is accessible to the public—

''(I) the total amount of funds expended for each conference conducted under the authority of subsection (b)(4); and

''(II) the amount of funds expended for each such conference that were for transportation and for travel expenses.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to conferences conducted under the authority of section 1936(b)(4) of the Social Security Act (42 U.S.C. 1396u–6(b)(4)) after the date of enactment of this Act.

SEC. 6. FUNDING FOR THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking ''$2,220,000,000'' and inserting ''$2,290,000,000''.

DEBBIE SMITH REAUTHORIZATION ACT OF 2008

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 5057 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 5057) to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes.

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

Mr. LEAHY. Mr. President, I am pleased that the Senate will pass the reauthorization of the Debbie Smith Act. I want to thank Senator BIDEN for his leadership in the Senate in supporting this important program, and I was pleased to work with him and others, as I have before, to ensure that the Debbie Smith grant program is given the authorization to continue its vital work.

I should take this opportunity to thank Debbie Smith for her courage and for the tireless efforts of her and her husband, Rob, on behalf of rape victims. In her own case, DNA testing led to the arrest and conviction of her attacker, but the backlog of rape kits waiting to be tested forced her to endure an excruciating wait before the culprit could be found and justice could be done. The legislation that she inspired and worked so hard to pass aims to ensure that other victims do not have to live in fear through a long and unnecessary delay.

In 2004, after years of work, Congress passed a significant package of criminal justice reforms known as the Justice for All Act, which substantially increased Federal resources available to State and local governments to combat crime with DNA technology. The Debbie Smith DNA Backlog Grant Program was a key component of that legislation. I worked hard for years to try to get the Debbie Smith Act passed, and I was thrilled in 2004 to finally be able to call Debbie to tell her that our hard work had paid off. I have pushed every year since for full funding of this crucial program.

As DNA testing moved to the front lines of the war on crime, forensic laboratories nationwide experienced a significant increase in their caseloads, both in number and complexity. Funding simply did not keep pace with this increasing demand, and forensic labs nationwide became seriously bottlenecked.

Backlogs have seriously impeded the use of DNA testing in solving cases without suspects—and reexamining cases in which there are strong claims of innocence—as labs are required to give priority status to those cases in which a suspect is known. Solely for lack of funding, critical evidence remains untested while rapists and killers remain at large.

The Debbie Smith DNA Backlog Grant Program has given States help they desperately needed, and continue to need, to carry out DNA analyses of backlogged evidence. It has provided a strong starting point in addressing this serious problem, but much work remains to be done before we conquer these inexcusable backlogs. That is why I so strongly support reauthorization of this vital program.

Some in both Chambers have expressed a desire to expand and improve this program and other DNA testing programs. I share those goals and will work with others to pursue them next year. It is very important, though, that we reauthorize the Debbie Smith program now, when we can and should, and turn to more difficult tasks in the next Congress when we will be able to give them the attention they require.

This reauthorization bill authorizes $755 million over the next 5 years to reduce the current backlog of unanalyzed DNA samples in the Nation's crime labs. I am glad that the Senate has passed it, and I hope the House promptly passes this version of the bill, and the President promptly signs it. I hope too that Congress fully funds this important program.

I want to make one point on the issue of rape kit testing, which this legislation does so much to promote and which Debbie Smith has worked so hard to make available for all victims of horrendous attacks. No victim should ever be required to pay the cost of a rape kit. Collecting and testing evidence from serious crimes is a responsibility our Government and our community bears, and it should never be seen as a revenue source for cities and towns. It appalls me that any official in any community would condone such a practice, and I hope it will stop.

I congratulate Debbie and Rob Smith on this key step toward the reauthorization of this important program, and I look forward to working with them to continue to find ways to protect women, assist crime victims, and bring criminals to justice.

Mr. REID. Mr. President, I ask unanimous consent that a Biden substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5646) was agreed to, as follows:

(Purpose: to provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Debbie Smith Reauthorization Act of 2008''.

SEC. 2. GENERAL REAUTHORIZATION.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (c)(3), by—

(A) striking subparagraphs (A) through (D);

(B) redesignating subparagraph (E) and subparagraph (A); and

(C) inserting at the end the following:

''(B) For each of the fiscal years 2010 through 2014, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).''; and

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

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for grants under subsection (a) $151,000,000 for each of fiscal years 2009 through 2014.''.

SEC. 3. TRAINING AND EDUCATION.

Section 303(b) of the DNA Sexual Assault Justice Act of 2004 (42 U.S.C. 14136(b)) is amended by striking ''2005 through 2009'' and inserting ''2009 through 2014''.

SEC. 4. SEXUAL ASSAULT FORENSIC EXAM GRANTS.

Section 304(c) of the DNA Sexual Assault Justice Act of 2004 (42 U.S.C. 14136a(c)) is amended by striking ''2005 through 2009'' and inserting ''2009 through 2014''.

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

The bill (H.R. 5057), as amended, was read the third time, and passed.

METHAMPHETAMINE PRODUCTION PREVENTION ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 962, S. 1276.

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

The bill clerk read as follows:

A bill (S. 1276) to establish a grant program to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Methamphetamine Production Prevention Act of 2008''.

SEC. 2. CLARIFICATIONS REGARDING SIGNATURE CAPTURE AND RETENTION FOR ELECTRONIC METHAMPHETAMINE PRECURSOR LOGBOOK SYSTEMS.

Section 310(e)(1)(A) of the Controlled Substances Act (21 U.S.C. 830(e)(1)(A)) is amended by striking clauses (iv) through (vi) and inserting the following:

''(iv) In the case of a sale to which the requirement of clause (iii) applies, the seller does

not sell such a product unless the sale is made in accordance with the following:

''(I) The prospective purchaser—

''(aa) presents an identification card that provides a photograph and is issued by a State or the Federal Government, or a document that, with respect to identification, is considered acceptable for purposes of sections 274a.2(b)(1)(v)(A) and 274a.2(b)(1)(v)(B) of title 8, Code of Federal Regulations (as in effect on or after March 9, 2006); and

''(bb) signs the written logbook and enters in the logbook his or her name, address, and the date and time of the sale, or for transactions involving an electronic logbook, the purchaser provides a signature using one of the following means:

''(AA) Signing a device presented by the seller that captures signatures in an electronic format. Such device shall display the notice described in clause (v). Any device used shall preserve each signature in a manner that clearly links that signature to the other electronically-captured logbook information relating to the prospective purchaser providing that signature.

''(BB) Signing a bound paper book. Such bound paper book shall include, for such purchaser, either (aaa) a printed sticker affixed to the bound paper book at the time of sale which either displays the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale, or a unique identifier which can be linked to that electronic information, or (bbb) a unique identifier which can be linked to that information and which is written into the book by the seller at the time of sale. The purchaser shall sign adjacent to the printed sticker or written unique identifier related to that sale. Such bound paper book shall display the notice described in clause (v).

''(CC) Signing a printed document that includes, for such purchaser, the name of each product sold, the quantity sold, the name and address of the purchaser, and the date and time of the sale. Such document shall be printed by the seller at the time of the sale. Such document shall contain a clearly identified signature line for a purchaser to sign. Such printed document shall display the notice described in clause (v). Each signed document shall be inserted into a binder or other secure means of document storage immediately after the purchaser signs the document.

''(II) The seller enters in the logbook the name of the product and the quantity sold. Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

''(III) The logbook maintained by the seller includes the prospective purchaser's name, address, and the date and time of the sale, as follows:

''(aa) If the purchaser enters the information, the seller must determine that the name entered in the logbook corresponds to the name provided on such identification and that the date and time entered are correct.

''(bb) If the seller enters the information, the prospective purchaser must verify that the information is correct.

''(cc) Such information may be captured through electronic means, including through electronic data capture through bar code reader or similar technology.

''(v) The written or electronic logbook includes, in accordance with criteria of the Attorney General, a notice to purchasers that entering false statements or misrepresentations in the logbook, or supplying false information or identification that results in the entry of false statements or misrepresentations, may subject the purchasers to criminal penalties under section 1001 of title 18, United States Code, which notice specifies the maximum fine and term of imprisonment under such section.

''(vi) Regardless of whether the logbook entry is written or electronic, the seller maintains each entry in the logbook for not fewer than 2 years after the date on which the entry is made.''.

Amend the title so as to read: ''A bill to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.''.

Mr. REID. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed; the committee reported title amendment be agreed to; the motions to reconsider be laid upon the table with no intervening action or debate; and any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1276), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: ''A bill to facilitate the creation of methamphetamine precursor electronic logbook systems, and for other purposes.''

Mr. DURBIN. Mr. President, I rise today to speak about the Senate's passage of the Methamphetamine Production Prevention Act. This is legislation I introduced with my colleague Senator GRASSLEY to make it easier for law enforcement to keep track of purchases of the ingredients needed to produce methamphetamine. I am pleased that the Senate has passed this important legislation by unanimous consent, and I urge the House of Representatives to act quickly to take up and pass the bill.

For years, the manufacture and use of methamphetamine have plagued families and communities across Illinois and throughout the Nation. Current Federal law limits the amount of meth precursor drug products that a person can buy and requires pharmacies to keep a written or electronic logbook recording each sale of a precursor product. The point of these logbooks is to keep track of individuals' purchases so they cannot buy amounts that exceed the limit. The only real reason to purchase over-the-limit quantities of these products is for meth production. So current law limits bulk purchases and requires record-keeping of transactions.

Unfortunately, meth makers have figured out how to avoid these limits by ''smurfing.'' This is the practice of buying meth precursor products in quantities above the limit by traveling to multiple pharmacies that keep written logbooks and buying legal amounts at each one. It is difficult and time-consuming for law enforcement investigators to find these meth ''smurfs'' when the investigators have to go to each pharmacy and flip through the paper logbooks to try to spot individual names. According to Illinois law enforcement authorities, smurfing now accounts for at least 90 percent of the pseudoephedrine used to make meth in Illinois.

The Methamphetamine Production Prevention Act will help wipe out ''smurfing'' by making it easier for retailers to use electronic logbook systems that can monitor sales of meth precursor products and identify individuals who are illegally stockpiling those precursors. When retailers collect their logbook information electronically and make that information accessible to law enforcement, that information can be used to identify and prosecute ''smurfs'' and meth cooks.

The Methamphetamine Production Prevention Act corrects several technical hurdles in current Federal law that are prohibiting more widespread use of electronic logbook systems. For example, the bill gives retailers who use electronic logbook systems the option of collecting purchaser signatures on paper, as long as those signatures can be clearly linked to the rest of the sale information that is captured electronically. This will provide tremendous cost savings for retailers without hurting law enforcement efforts. Also, the bill permits retailers to enter into their logbook system data about the product name and quantity sold through electronic data capture technology such as a bar code reader. This will help to speed up transactions, and will help avoid transcription errors in the logbook records.

Further, this legislation permits a retailer, rather than a purchaser, to enter the purchaser's name and address and the date and time of sale into the logbook system. It is difficult to design an electronic logbook system where the purchaser is the one who ''enters'' his or her name, address, and the date and time of sale, as is required under current law. My bill permits the retailer to input that information, and then the purchaser must verify that the inputted information is correct, for example by orally confirming the information that the retail clerk reads back to the purchaser. The bill would also permit this information to be captured through electronic capture technology, such as a bar code reader or a software program that records the date and time.

If we increase the use of electronic logbook systems, we will put a stop to ''smurfing'' and cut off the flow of precursor chemicals that supply meth labs in Illinois and throughout the country. That is why law enforcement agencies such as the National Narcotics Officers' Associations' Coalition, the National Criminal Justice Association, the National Sheriffs' Association, and the National District Attorneys Association want this legislation to become law. My staff and I have also worked with the retail pharmacy community and the drug manufacturer community on this legislation, and I am pleased that my bill has received the endorsement of the National Association of Chain Drug Stores and the Consumer Healthcare Products Association. I also want to commend and thank Illinois attorney general Lisa Madigan and

Steve Mange, the head of the Illinois Meth Project, for their assistance in crafting this legislation.

I thank my colleague from Iowa, Senator GRASSLEY, for his leadership on this issue and Senators HARKIN, BAYH, BIDEN, CANTWELL, CLINTON, CONRAD, FEINSTEIN, JOHNSON, LINCOLN, MCCASKILL, MURKOWSKI, OBAMA, and SCHUMER for their cosponsorship.

The production of methamphetamine has plagued our communities for far too long, and this legislation takes a critical step to stop it. I thank my colleagues in the Senate for the unanimous passage of this important bill.

RECESS

Mr. REID. Mr. President, there are things going on here in the Capitol, just to alert Members, so I ask unanimous consent that we stand in recess until 3 p.m. today, and that everyone should know that we are going to come back and try to get consent to be in recess because at 4 o'clock we have an all-Senators briefing by Secretary Gates, Admiral Mullen, and Ambassador Negroponte.

People should be aware that if they have something to do or say, they can come here at 3 o'clock. I think it would be more appropriate if we were in recess until 5, but there has been an objection to that, so I ask unanimous consent that we stand in recess until 3 p.m.

There being no objection, the Senate, at 1:07 p.m., recessed until 3:00 P.M. and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

The PRESIDING OFFICER. In my capacity as a Senator from Minnesota, I suggest the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WHITEHOUSE. I ask unanimous consent that I may go beyond the 10 minutes for morning business to perhaps 12 minutes.

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

RESPECTING REALITY

Mr. WHITEHOUSE. Madam President, we are working this week, many of us working very hard this week—none harder than my friend and senior colleague from Rhode Island, JACK REED—to address a paroxysm in the financial markets, one that has been a long time coming. During that long time, people in Washington, over and over, missed opportunities to prevent it. Make no mistake, this whole episode we are going through now was preventable. This is a human failure not some natural disaster, not economic inevitability. A political sellout to financial interests, a sellout given intellectual cover by a toxic ideology of deregulation appears to be at the heart of what happened. I was not here to see it, but all the clues point to that.

This crisis is now past preventing. We have to fix it. It is a shame on those responsible that it happened in the first place, but it is a shame on all of us if we do not learn its lesson because there is more to come.

In his famous ''Give Me Liberty Or Give Me Death'' speech, Patrick Henry also noted:

> We are apt to shut our eyes against a painful truth, and listen to the song of that siren till she transforms us into beasts.

We should heed these words from the earliest days of our democracy and not shut our eyes to the painful truth of what has happened and not shut our eyes to the painful truths that still lie before us. Folks here have too often told Americans what they want to hear and too rarely told them what they need to know.

There is no painful truth that Americans cannot deal with; there is nothing Americans cannot solve—but not if we are not told what we need to know. So we are now borrowing $700 billion because people here refused to face a painful truth about our financial markets, about the folly of deregulation. But that is just one of many painful, in some cases inconvenient, truths that we confront today.

I remember sitting with the Presiding Officer, the distinguished Senator from Minnesota, in the Environment and Public Works Committee hearing the president of the Association of Health Directors of all the States and territories across the Nation deliver the unanimous statement of that association on global warming. It was a strong statement, a stern and sobering statement. But most important, it was unanimous. Yet in this Chamber some still ignore or deny the painful truth of the changes befalling our planet.

Our capacity for denial, for artifice, and for self-delusion has become dangerous. Phony doubts about global warming may hide the facts of our planet's condition from our people, but the Earth doesn't care about doubts. She will behave the way nature dictates, and the consequences will be on all of us.

Phony theories of deregulation may have obscured the facts of the financial markets from us, but the markets don't care about our theories. If we let them come to failure, they will fail. And now the consequences are on all of us.

The painful experiences we are going through today are, for the Bush administration, a rendezvous with reality. It is not the only one we have coming, if we don't begin to govern in a reality-based environment.

The $7.7 trillion debt that George W. Bush has run up as President—there will be a rendezvous with reality on that. The $34 trillion Medicare liability, which is just one symptom of our bloated and unstable health care system—there will be a rendezvous with reality on that. The $740 billion annual trade deficit the United States of America is running—there will be a rendezvous with reality on that. An energy policy that hemorrhages $600 billion a year to oil-producing countries and puts us on the losing end of the biggest wealth transfer in the history of humankind, all to keep big oil happy—there will be a rendezvous with reality on that. There will be a rendezvous with reality on the tons of carbon and greenhouse gases we are pumping into our thin and delicate atmosphere. These rendezvous with reality will come.

The only question for us is on what terms will we meet them. We can decide: Will we be prepared or be caught flat-footed? Will we tackle problems while they are still manageable or wait until they overwhelm us? Will we address difficulty or face calamity? These are choices of ours and they pose the question, Are we capable of reality-based governing.

I ask these questions because there is a common narrative through all these problems, and it is a perilous one to our democracy.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. I would like, through the Chair, to ask my friend from Rhode Island if I can ask a unanimous consent?

Mr. WHITEHOUSE. I gladly suspend for the majority leader.

ORDER FOR RECESS

Mr. REID. Madam President, I ask unanimous consent at the hour of 4 p.m. we have a recess until 5:30.

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

Mr. REID. There is an all-Senators briefing starting at 4 o'clock. I thank the distinguished Senator from Rhode Island, one of my good friends.

Mr. WHITEHOUSE. I applaud the majority leader for the enormous, hard, successful work he is doing in these hours.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Democracy as an institution will not do well if we are all satisfied to be told what we want to hear and not what we need to know. Democracy will not address problems well if our elected leaders traffic in ideology instead of respecting reality. Reality bites hard when she is ignored. Democracy will not flourish if leaders tout for special interests instead of fighting for the public interest.

Democracy will suffer a terrible blow when the days of reckoning come, when the rendezvous with reality occurs and our people, particularly our young people, turn to us and say: How could you? How could you not have warned us? How could you not have been square with us? How could you have been so irresponsible?

As elected officials, we have a trust and we had better begin to honor it. So as we grapple with the proposal for the biggest bailout in history, a $700 billion patch on Wall Street and our credit market, what do we look for next? What is the next wave that will hit? Well, I fear the next internal wave we face could be credit card debt.

We have 115 million households in America. They have 1.2 billion credit cards; 115 million households in America with 1.2 billion credit cards. The total credit card debt that Americans will carry by the end of this year will likely be $1 trillion.

To put that in context, our international gross domestic product is only $14 trillion. With that many cards in use and that much debt piled up, we now have a pretty fixed pool of credit card borrowers out there. This is not an expanding market. The Bush economy has stressed this pool of borrowers and stressed them hard.

The average middle-class family under age 55 makes $2,000 less than when George W. Bush took office. Their average family expenses have increased by $4,600 since George W. Bush took office. If you add the two together, the average middle-class family is $6,600 a year worse off after 8 years of Republican misrule.

So they are stressed. They are not whiners, as Senator Gramm, one of the Presidential candidate's campaign advisers, said, and the economy around them is not fundamentally sound, as one of our Presidential candidates has busily been telling Americans until it had become too preposterous to continue saying it.

So what happens to these stressed families? Well, the credit card companies see a family stressed, and they see them as a worse credit risk, so they raise their interest rates and they impose steep penalties and fees. It is an industry where when you are down, they make it even worse for you.

So now the family is more stressed. So they fall more behind, and a vicious cycle emerges. Another vicious cycle operates right alongside. One credit card company finds a new dirty trick to gouge the consumer, so they make more money. Investors and competitors see them making more money, and in a market economy, capital goes to the highest rate of return.

So now all the other credit card companies have to copy them to compete. So that credit card agreement gets more and more pages, longer and longer, more tricks to hit you with fees, penalties, and rate hikes. They get more devious and complex, and nobody can get off that merry-go-round, because if they try, they will lose their competitive position to the worst of the lot.

So you have two vicious cycles and they converge and together they can drive credit card debt in only one direction. The tricks and traps and rate increases and penalties and fees get worse and worse, driven by the jungle force of competition among the credit card companies. Struggling families see credit costs rising ever higher, driving them further and further underwater, with no end in sight.

There is no present mechanism to interrupt these gathering forces. Now, in a reality-based mode of governing, prudent men and women would do something. There should be consequences when abusive lenders take advantage of families in difficult circumstances.

This summer our majority whip, Senator DICK DURBIN from Illinois, and I introduced the Consumer Credit Fairness Act, legislation that would provide a powerful incentive for loan companies to keep their rates and fees at reasonable levels and would give borrowers leverage to negotiate better terms. It would interrupt the vicious cycle.

But more can be done. For generations, for generations in this country, the 50 States had the power to enforce their own what were called usury laws, laws that limited the amount of interest that could be charged to fair and nonabusive levels, and they were able to enforce their usury laws against anyone. They were their citizens and they could protect them.

Then, in 1978, in a fairly narrow decision, construing the National Banking Act, the U.S. Supreme Court decided Marquette v. First Bank of Omaha and decided that States could only set limits on the interest rates and fees charged by in-state credit card companies.

So what do you expect would happen? Predictably, credit card companies began moving to States with the weakest lending laws, with the worst consumer protections, setting off what has become a race to the bottom among credit card companies, all at the expense of consumers.

I intend to propose that we restore to our sovereign States the rights they historically enjoyed for two centuries, to set limits on the interest rates and fees charged to their own citizens. It does not seem like asking a lot. I will soon be introducing legislation to accomplish this. I encourage my colleagues to try to help me bring this to reality.

If we simply reempower the States to protect their own citizens from unscrupulous lending practices, we can end the confluence of these two vicious cycles before this situation, too, gets out of hand.

While the current economic crisis gives us this moment of clarity, this moment of reality, this moment of reality-based governing, while this $700 billion rendezvous with reality has our attention, before we revert to claims that the No. 1 issue facing the United States is to drill for more oil or whatever we get back to, while we have a moment of honest focus, this is our chance to get ahead of one of these problems.

We will still have the $7.7 trillion Bush debt to deal with, we will still have the $34 trillion Medicare debt to deal with, we will still have the $734 trillion trade deficit to deal with, we will still have our energy hemorrhage to deal with, and we will still have global warming to deal with, to name a few.

But let's get ahead of this one. Let's not mess up this one.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

TRIBUTE TO LARRY MUNSON

Mr. ISAKSON. Madam President, earlier today I spoke on the floor about the impending financial difficulties we are facing and the issues before us. I come back not to repeat those remarks at all but, rather, in this time of turmoil and stress, to recognize that all of us as Americans, and Georgians in my State, in times of difficulty turn to those institutions of faith and family that give them strength.

In Georgia, in the fall, there is another institution that gives us strength, the University of Georgia football, the Southeastern Conference, and a man named Larry Munson. On Monday of this week, Larry Munson, at the age of 86, announced his retirement, after 43 years as the voice of the Georgia Bulldogs.

He first started in Wyoming, moved to Tennessee, and in 1962, the Atlanta Braves brought him to Atlanta to be the first announcer when the franchise moved from Milwaukee. In 1996, Joel Eaves, the athletic director, asked him to come to Athens. He became an institution not just in Athens, not just in the Southeastern Conference but of announcers around the world.

He is in the company of Chris Schenkel, Frank Jackson, and those famous voices all of us have known in sports. But more than anything else, Larry Munson coined phrases that now are listed in dictionaries and history books for their uniqueness.

In 1981, when the University of Georgia upset Tennessee in Knoxville, TN, on the last play of the game, he talked about how his ''Bulldogs had stepped on and crushed the Tennessee faces just like they had on a hobnailed boot.''

In 1982, when Georgia won the Southeastern Conference in Auburn, it was Larry Munson who declared that ''sugar was falling from the skies'' as Georgia got an invitation to go to the Sugar Bowl.

Probably the most memorable, in 1980, when Herschel Walker, then a freshman, scored his first touchdown of a storied career in college, Larry Munson replied, as he announced the run: My goodness, he is running over people. He ran right through people. And, oh, my goodness, he is only a freshman.

These and so many more have endeared Larry Munson to the people of Georgia, the Southeastern Conference, and collegiate gate football. So on this day in the Senate, as all of us seek

comfort in those things we appreciate, love, and admire, I wish to express my appreciation to Larry Munson and the contributions he has made to athletics in our State and to the University of Georgia and wish him the very best in the years to come.

God bless you, Larry.

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. DOMENICI. I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator is authorized to speak for up to 10 minutes.

Mr. DOMENICI. Madam President, I need 20, so I ask unanimous consent for 20.

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

TRIBUTE TO SENATORS

JOHN WARNER

Mr. DOMENICI. Madam President, I rise today with a heart that is not totally joyful because I am going to be talking about four of my colleagues who are leaving the Senate. Pretty soon, I will be talking about my own leaving the Senate but not today. I will save that for another day. The first one I want to talk about is JOHN WARNER of Virginia. I have gotten to know him and his wife Jeanne.

It is with great pride and honor that I pay tribute to my friend and distinguished colleague from the Commonwealth of Virginia, Senator JOHN WARNER. He served in this body for 30 years; I have served for 36. So the arithmetic is simple: I have been with him for all of his 30 years in the Senate. He dealt almost exclusively, and with perfection, on military matters. I did the budget for the Senate for a long time, and I have been privileged to work for the last 5 years on energy matters. In between, it was nothing but joy on my part to work on matters of the Senate. I believe the same was true for JOHN WARNER, who not only worked in military matters and worried about our troops, but he also from time to time got over into public works.

Early in his Senate career, Senator WARNER and I served on the Environment and Public Works Committee. More recently, our work together has centered on defense and national security and, as I indicated, of late homeland security.

He earned the respect of his colleagues on both sides of the aisle because of his unique ability to negotiate and foster positive working relationships with fellow Senators. There was much being said about working across the aisle and being bipartisan. Clearly, when things had to be partisan because it was the nature of things, JOHN WARNER was a partisan. But obviously, when it was a matter that pertained to something that could be worked out between Democrats and Republicans, one could bet that he was quick to raise his hand and lift it across the aisle and work with Senators from the other side.

He has been a leader on a broad range of issues. As I indicated, he is someone who makes me proud.

Prior to his five terms in the Senate, JOHN served his country as a United States Marine, was later appointed Under Secretary of the Navy and was eventually appointed and confirmed as the 61st Secretary of the Navy. Early in our Senate career, Senator WARNER and I served on the Environment and Public Works Committee together. Over the past several Congresses, our work together has centered on defense, national security and homeland security matters.

During his Senate, tenure JOHN has earned the respect and admiration of his colleagues on both sides of the aisle because of his unique ability to negotiate, accommodate, compromise, and foster positive working relationships with fellow Members. Through this approach, JOHN WARNER has been a leader on a broad range of issues such as strengthening our defense and national security, fighting the global war on terrorism and decreasing carbon and other emissions globally. While in the Senate, he dutifully served on the Armed Services Committee, Intelligence Committee, Environment and Public Works Committee, and Homeland Security and Governmental Affairs Committee.

JOHN has been a long time colleague of mine, and I will dearly miss him. The Commonwealth of Virginia has been fortunate to have JOHN on their side. He has been an asset not only to his state, but also to our Nation. In the course of working together for so many years, I have developed genuine respect for Senator JOHN WARNER. I thank him for years of distinguished service and wish him the very best in all his future endeavors. My wife Nancy and I wish JOHN and his wonderful family all the best during his retirement.

LARRY CRAIG

At this time I would like to take some time to talk about Senator LARRY CRAIG and to thank him for his service here in the Senate and for his service and dedication to his home State of Idaho.

I have been fortunate enough to work with Senator CRAIG on many of the same issues over the years. More often than not we were on the same side of those issues. We worked for many hours together on energy policy, and more specifically, nuclear energy policy. In addition, the States we represent, New Mexico and Idaho, are similar in that they are both in the west, are largely rural, have vast swaths of Federal land, and are home to Federal research laboratories. These similarities—between the States we represent—brought us together by way of common interests on many of the same policy subjects.

Senator CRAIG and I served on the Appropriations Committee together for many years. During that time, we worked together to make sure the Departments of Energy and Interior were taken care of in terms of funding. As many of us know, Senator CRAIG comes from a strong agriculture background. At times we had to try to fend off, as best we could, efforts to change the Milk Income Loss Contract program. The changes to the program would have compromised dairy producers from each of our home States. Dairy farmers in New Mexico and Idaho knew that Senator CRAIG was a formidable ally for their cause, and I thank him for his help and support.

As chairman and ranking member of the Energy and Natural Resources Committee, I have always admired Senator CRAIG's command of public lands policy. He has been a great leader on public lands issues throughout his career and without the leadership of Senator CRAIG, we would have never been able to pass the Healthy Forests bill in December 2003. It was also through his leadership we passed the Secure Rural Schools and Community Self-determination Act which has been so important to both our states. He led the Republican side on public lands and forest issues as chairman or ranking member of the Public Lands and Forest Subcommittee from 1995 until 2007.

Some of our most important work together took place in the nuclear arena. Senator CRAIG has done a tremendous job of promoting nuclear power as a safe, reliable and clean source of energy. I appreciate his outstanding work on nuclear matters, and I appreciate his support and encouragement along the way for my efforts in this important area.

Many people know that because of where we live and what we do in our States, Senator CRAIG and I naturally work on similar matters. That is as it turned out. I will talk about some matters that have been very big for our country that are not natural to our States.

First, I served with him on the Committee on Appropriations for a number of years. We worked together on energy policy and, more specifically, nuclear energy policy. The States we represent are home to national research laboratories.

As many of my colleagues know, Senator CRAIG comes from a strong agricultural background. At times, we had to try to fend off, as best we could, efforts to change the Milk Income Loss Contract Program, called the MILC Program. That sounds like something we should all be for. It turns out that dairy farmers in New Mexico and Idaho knew Senator CRAIG was a formidable ally when it came to subsidies that would help some and hurt others. We were generally on the hurt end because we were smaller States that had that particular set of facts. We worked hard

on those issues. I learned to respect him greatly.

He led Republicans on public lands issues and forest issues as chairman and ranking member of the Public Lands and Forest Subcommittee from 1995 through 1997. This led to the enactment of the healthy forest bill in December of 2003—I was part of that with him—and the Senate Rural Schools and Communities Self-Determination Act, which was his. I am sure most of the thinking to put it together was his. It was an absolutely stellar bill that got assistance to schools across his State and other Western States that lost some or all of their revenues for their schools because of the curtailment of timber sales in the area. He and the distinguished Senator from Washington worked together to get this done.

Senator CRAIG and I have spent a great deal of time on matters pertaining to nuclear power. Nuclear power is making a renaissance in America. We will soon have many of them built in the United States. We have more than any other country in the world, but we only get 20 percent of our electricity from nuclear power. Countries such as France have gone way ahead of us and now have 75 to 80 percent. Other countries of the world have as well, since America has made its bid, saying: We are going to change our minds, for which I am very proud. I took the lead in that, with LARRY's help, and we have changed America. With it has come a renaissance in nuclear power.

I wish him the greatest success in his retirement. I am sure we will hear from him. He is too young to be quiet. He will be doing something, and we will hear about it.

CHUCK HAGEL

I also wish to take this time to pay tribute to CHUCK HAGEL, the senior Senator from Nebraska, who is retiring after serving for two terms in the Senate.

Senator HAGEL, a fourth generation Nebraskan, has served his State and his country in many ways. He served as an infantry squad leader with the U.S. Army's 9th Infantry Division and is a decorated Vietnam veteran, having been awarded many honors including two Purple Hearts. As a U.S. Senator, CHUCK HAGEL has served on four committees: Foreign Relations; Banking; Housing and Urban Affairs; Intelligence and Rules.

During his time in the Senate, coinciding with mine, it has been my pleasure to work with the distinguished Senator on issues affecting our Nation. I can recall a chance meeting between a member of my staff, one of my constituent groups from New Mexico and Senator HAGEL, in which he took time out of his busy schedule to speak with my New Mexico constituents to offer his insights and share some very kind words. Such a small genuine instance like this made all the difference in their trip to our Nation's Capital.

As I said, when he came here, for some reason, I think I became one of his very first friends. He must have decided that I was a big chairman, and when I went on a trip with the Budget Committee to Europe, I asked him if he would go, and he jumped to it. So we got to know each other during the first 2 or 3 months of his term on a trip to Europe where we learned about the new monetary system that was about to take place in Europe. We did a number of other things together.

Obviously, he has been an exemplary Senator in all respects. He will return to his State and to America filled with ideas and ready to do other things for this great land. My wife Nancy and I wish CHUCK and his family all the best.

WAYNE ALLARD

Now I rise to speak about Senator WAYNE ALLARD from Colorado who announced in January 2007 he would not seek reelection in 2008, keeping his promise of only serving two terms. I would like to thank WAYNE for his service here in the Senate and for his service to the State of Colorado.

In the course of working together with Senator ALLARD for many years on the Senate Budget Committee and more recently on the Senate Appropriations Committee, I have developed genuine respect for Senator ALLARD. We have a lot in common, fighting for the interests of our predominantly rural, Western States. Although we did not always agree, we worked well together, and I valued his commitment to his home State.

Senator ALLARD announced in January of 2007 that he would not seek reelection in 2008, keeping his promise to serve only two terms. Some of us were sorry that he did that. I was one. I would like to thank WAYNE for his service in the Senate, for his service to the State of Colorado, my neighbor.

We worked together for many years on the Budget Committee. More recently, we worked on appropriations. Colorado is my neighbor to the north, and we have much in common in fighting for the interests of much of our rural way of life that Western States have. At the same time, we have growing metropolises with the problems of transportation and the like, which he has spent much time on. He has supported many things I have worked on. For that, I am grateful and thankful to him today.

He and his wife Joan will return to non-Senate life. I don't know if he is going home. I haven't asked him personally. But wherever he goes, it is obvious he will make an impact.

BANKING LESSON

Mr. DOMENICI. Madam President, I want to give a little history lesson on banking. It is strange that I only served on the Banking Committee 2 years of my Senate life. That was when I filled in. I served and learned a lot. But when this crisis came about, I decided that somebody was going to teach me about what had happened since the Great Depression. So I am going to try to do that as quickly as I can.

First, it is not time for partisan ideological finger-pointing.

Second, there is no plan that can emerge from any set of honest deliberations that will be painless. We are undergoing a massive deleveraging in the finance markets.

Third, I was chairman of the Senate Budget Committee when the Resolution Trust Corporation was formed in order to curb the savings and loan crisis of the early 1990s. That effort was also controversial. I hope the plan that emerges from Congress and the administration does the same for financial markets now. I recognize the difference between the two. The first was much easier because there were many physical assets we could look at and transfer title to, and people could feel assets. I would say that, as a model, that terrible situation ended with the Federal Government making money instead of losing money.

From everything I know about the proposal, the principal proposal put forth by the executive branch through the two spokesmen who have been working 24 hours a day nonstop, the chairman of the Federal Reserve, an absolute expert in this field—it has been said over and over that he knows much about recessions and he knows much about depressions. He wrote his professorial doctorate thesis on the Great Depression. That is why he talks as if he knows what happens in depressions. He has been telling us what will happen if we go into a depression. Then we have the Secretary of the Treasury, whom we all have gotten to know. He apologizes profusely for not being a great speaker, but he has presented a difficult plan and come a long way.

I, for one, hope we come to a resolution soon between Democrats and Republicans and the White House, speaking through their spokesmen, and send a signal to the American people that we know how to take care of the financial markets—not Wall Street, the financial markets—of America. The financial markets, not Wall Street, are plugged. They don't work right now. They don't run. They are filled with toxic assets. We have to get the toxic assets out or else we will have no liquidity in the financing system.

Some say the basic problem goes back to 1933 and the so-called Glass-Steagall Act that separated investment banking from commercial banking. Some say that, to the contrary, if Glass-Steagall were still the law of the land, we wouldn't have the problems we now confront. Both sides cite great scholars, economic theorists, and market gurus, but both Democrats and Republicans voted for the original Glass-Steagall. In 1999, under the leadership of President Clinton and Treasury Secretary Rubin, Glass-Steagall was repealed. Now many say that repeal of Glass-Steagall has caused the problem.

I should note that Republicans controlled the Congress then and Democrats controlled the executive branch. Both parties played a role.

Some contend that the problem goes back to 1977, when Congress passed the Community Reinvestment Act requiring that financial institutions finance home purchases to borrowers who were historically deemed unlikely to pay back the loans. The theorists say that when politicians try to determine who is a good borrower, both the borrower and the lender will suffer. I think we will look back on this effort to save the system and that conclusion will become a reality. Let me repeat. Some say that when we try to determine who is a good borrower and make a determination rather than letting the market make the determination as to who is a good borrower, we both suffer. Those who lend the money don't get paid, and those who buy don't get what they bought. That is sort of what has happened here. Many of those became the toxic assets that we are now talking about. The Reinvestment Act, which both Democrats and Republicans voted for, was an act that attempted to push loans that were questionable in terms of whether the people buying could ever pay them off.

Some say we should have seen this coming. They note that the savings and loan crisis came not too long after the Garn-St. Germain Act of 1982 that loosened regulation of savings and loans in America. The law drew the support of both Democrats and Republicans and was signed into law by a Republican President. This argument says that when regulation of Government-insured money loosens, the odds that extremely risky behavior will occur increases.

During the last 10 years, as regulation of markets decreased, globalization of markets increased. More and more complicated and model-driven financial products were invented, and regulators clearly lost the ability to analyze risk and to step in when necessary. Many believe the Long-Term Capital Management debacle was an early warning that financial mathematicians in the marketplace had gotten ahead of the financial regulators. Warnings about the size and complexity of derivatives of all sorts proliferated. Many policymakers asked aboutthe size and complexity of these derivatives of all sorts and could not get answers and could not understand some of that which they were being told. Many policymakers and regulators assumed that the financial companies themselves would realize that proper risk analysis was in their self-interest and self-regulation would naturally occur. That assumption has proved wrong. Many purchasers of these convoluted products were reassured because rating agencies continued to give so many of them AAA ratings. Instead of going through the extremely difficult process of analyzing each and every component of each and every product, purchasers depended upon the ratings agencies. So some analysts now say it was the rating agencies that failed.

Finally, we all recognize that turmoil plagues all markets worldwide. Many nations and institutions in many countries now own what are called ''toxic assets.'' I have just tried to describe them a minute ago.

Literally trillions of dollars of various complex financial products are held by many banks, investment houses, pension funds, and insurance companies in almost every developed nation. China has had to step in by increasing Government shares of some banks. Russia closed down its markets for 2 days and may spend as much as $120 billion to stabilize its markets. Germany and the United Kingdom have had to devote billions within the last 18 months to try to stem financial contagion. Serious erosion of confidence in financial institutions threatens to freeze credit, with all the disastrous consequences that holds for a financial world built on easy, safe, transparent credit. Now credit is hard, insecure, and opaque.

So, I will not pretend to know if the plan proposed by the administration and some in Congress will solve the problem. Since no one seems to know what shape this plan will take in the end, any predictions seem foolish at this point. I do know that the size of the potential market injury, and the consequences that the working man and woman in this and other nations will suffer, compel serious, strategic sovereign government action. Thus, I believe the warnings of a Federal Reserve Chairman who probably knows as much about the financial consequences of the Great Depression as anyone else in town, and the warnings of a Treasury Secretary who used to head a Wall Street firm that invented many of the instruments that now seem ''toxic.'' If they don't know the severity of this problem, and if they cannot at least give us a plan that will stabilize market behavior until a clearing price for these assets emerges, then I suspect that no one can.

We will pass legislation that I guarantee you will be imperfect. All sorts of objections from various industries and groups have already filled cyberspace, and newspaper space, and air time. Ideological and theoretical objections already fill the atmosphere. It seems to me that the time for such almost theological discussions is long past. As a Senator who has been here a long time, and seen many recessions and market crises come and go, I only know two things: we are all to blame in some form or other; and we need to act now, with a very large, Government-led program, and with all prudent speed.

Madam President, I believe my time is about to expire.

I certainly hope we will pass something like what has been asked of us by the executive branch, with five or six things that clearly are necessary, that we find necessary as representatives of the people, but that we get it done because we must save our own ability to lend money—that is, our system of borrowing and lending—and the rest of the world kind of waits on us also.

So this is truly a big one. As I said to my hometown paper, after 36 years in the Senate, on the last day or next to the last day of my time here, I will vote on the most important issue I have ever voted on, the most complex, and that costs the most—all in one shot. As I leave and walk out, here will be behind me the most difficult issue we have faced as a Nation. It is very hard for our people to understand it, but it is a terrible one.

FERC

Mr. CORNYN. Madam President, I note that the distinguished ranking member of the Committee on Energy and Natural Resources is on the floor. I wonder if I might address a question to my good friend from New Mexico. Many are alleging that one of the root causes of our current financial distress stems from insufficient regulatory oversight of financial markets. That is a criticism which some allege to be applicable to our Nation's energy markets—the theory apparently being that lax oversight has allowed speculators and manipulators to artificially increase prices for oil and gas. Given that you were Chairman of the Energy Committee at the time of passage of the Energy Policy Act of 2005 I wonder if you might want to comment on the regulatory authorities that were addressed in that act. As I recall, EPACT significantly increased the Federal Energy Regulatory Commission's ability to not only oversee markets but to punish manipulation within those markets.

Mr DOMENICI. The Senator is absolutely correct. We enhanced FERC's authority to police and prevent market manipulation and we increased the Commission's authority to levy fines to $1 million per day. It was our thinking that the potential for fines of this magnitude would serve as a meaningful deterrent to market manipulation. While I am a long time supporter of markets, I agreed to the grant of enhanced penalty authority to the FERC as a step to ensure that those markets were conducted fairly, openly, and without the exercise of market power by any of the participants.

Mr. CORNYN. Madam President, I appreciate the comments of my colleague, and I share his sentiment both toward the desirability of markets and the need to ensure that those markets operate fairly and efficiently. My specific inquiry relates to the standard of review which attaches to any enforcement proceedings under these enhanced authorities. While I agree with the need for greater oversight in the operation of these markets, it seems to me that along with its enhanced oversight authority the FERC has an obligation

to protect the due process rights for those against whom it might bring causes of action. Did EPACT bring about any change in the standards of review which would attach to enforcement proceedings under these new authorities?

Mr. DOMENICI. I think the Senator's question is well informed, and I can assure him that there was no intent to change the standard of review which would attach to any enforcement proceeding. The longstanding practice has been for the accused party to have rights to a de novo review of the charges in Federal court. Such rights are necessary to ensure that the agency does not act as both prosecutor and judge in any enforcement proceeding. That right is clear, not just in the case law but in other statutes administered by the FERC, including the Federal Power Act and the Natural Gas Policy Act. There is no suggestion and there can be no inference that we intended to change that standard with our enhanced market oversight provisions in the Natural Gas Act.

Mr. CORNYN. I thank my good friend for that clarification and for the wisdom he has brought to Federal energy policy.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Madam President, let me say, first, following one of my dearest friends in the Senate, I cannot tell you how much I admire and respect this great man and how much he will be missed in the Senate.

Mr. DOMENICI. Madam President, I say to the Senator, thank you very much, Senator DOLE.

GAS SHORTAGES

Mrs. DOLE. Madam President, we all know high gas prices are the source of tremendous frustration to individuals, families, and businesses alike. I am greatly discouraged that yet another week has gone by and no action on a comprehensive energy policy has taken root in the Senate. Our country deserves better than the lack of leadership in Washington that has been shown on this issue the past 2 years.

We need a comprehensive energy policy, but right now in North Carolina we just need more gasoline. My State faces a gas shortage of crisis proportions. In western North Carolina, Asheville-Buncombe Technical Community College and Southwestern Community College have both canceled classes for the rest of this week because students and professors cannot get to class. My office has been assisting senior citizens who need help getting to doctor appointments because public transportation systems are struggling to meet increased demand. Businesses are closing early, cars are being left on the side of the road, and families are staying home just to conserve gasoline. The ripple effects of this gas shortage are resonating throughout North Carolina and the Southeast.

I know folks in western North Carolina are being particularly hard hit, and I want them to know I have heard them and we are acting to bring relief. My office has been in daily contact with constituents, State and local officials, gasoline refiners and distributors, and our Federal agencies. In response to the shortage, today my colleague, Senator RICHARD BURR, and I have written to the Secretary of Energy requesting him to tap the International Energy Agency's emergency gasoline and diesel fuel supply. An IEA release can help alleviate some of the supply constraints we are feeling in the United States. This is a prudent and responsible step which is on the scale of our efforts post-Katrina and Rita, and there is no reason the Secretary of Energy should not take this action.

Additionally, Senator BURR and I have introduced legislation today that will help prevent in the future a situation such as the one we find ourselves in today. The Motor Fuel Supply and Distribution Improvement Act of 2008 will reduce the proliferation of boutique fuels and streamline the process of getting more affordable and reliable product to western North Carolina, Charlotte, the Southeast, and across the country. With this legislation, we will no longer have to rely on an EPA Administrator to issue a waiver in times of crisis or be held victim to a policy that creates hurdles to getting gasoline to consumers when they need it most.

We also know this particular shortage is a result of Hurricanes Gustav and Ike, which devastated the gulf coast and its infrastructure. Being from a State that has been hit by its fair share of hurricanes, my heart goes out to the people of the gulf who have endured far too much disaster for one lifetime, and we will do everything possible to support them and help them rebuild.

Of strategic consequence, however, the refinery and pipeline closures in the gulf as a result of the storms highlight a glaring energy security issue for our country. It makes little sense to have a quarter of our country's refining capacity located so densely in one area. We have far too few oil refineries in America, and right now in North Carolina we are experiencing the harmful consequences of a policy that has greatly inhibited the building of new refineries in America.

We need to get to work building new refineries right here at home. In fact, for years I have been calling for streamlining regulations so more refineries can get built, only to have special interests stand in the way. The Gas Petroleum Rifiner Improvement and Community Empowerment Act, or Gas PRICE Act, which I have supported since 2005, would streamline the process for the construction and operation of a refinery so we can build additional refineries and create new jobs in North Carolina and throughout the Southeast. This is a sensible approach that would expand refinery capacity and lower gas prices.

Significantly, with this plan, our country would no longer be so dependent on one area to provide us with so much of our gasoline. As we saw in the wake of Hurricanes Katrina and Rita, we need to expand refining capacity and production so that even in the face of crisis situations our fuel supply system continues to function and support American businesses and consumers.

Now Hurricanes Gustav and Ike have reinforced that same message. North Carolinians can no longer afford Congress's inaction on our energy future. It is time to put the special interests aside and do what is right for our country.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KOHL. Madam President, I ask unanimous consent to speak in morning business for approximately 6 minutes.

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

Mr. KOHL. Thank you, Madam President.

WALL STREET BAILOUT

Mr. KOHL. Madam President, today we are facing a historic economic crisis. We have been told by the Secretary of Treasury and the Chairman of the Federal Reserve that we stand on the edge of a financial cliff and that we are looking down on a potential disaster that this country has not seen since the Great Depression. We have seen historic financial firms and banks with household names swept away in a matter of weeks. These massive changes have left the American people worried, confused, and angry.

In the wake of this chaos on Wall Street, the administration has come to Congress with a plan they believe will calm the storm. They came to us with few details—only three pages. They told us we need to move immediately, that delay was dangerous. We were told that oversight of the bailout would be a burden and just slow everything down. We were told to hand over the money and simply get out of the way.

The administration asked the American people for a $700 billion blank check. Wall Street and the administration are asking hard-working Wisconsinites to bail them out, to buy assets that no one wants, to go further into debt to China so that banks and financial institutions can avoid bankruptcy. My constituents, the people of Wisconsin, cannot understand how we got to this point and why they should be asked to foot the bill. They are furious, and I do not blame them.

I share their anger. As a businessman, I am shocked and appalled that the supposed best and brightest on Wall Street allowed their companies to purchase dangerous assets they did not understand, that these people gambled with the money of millions of Americans, and now they expect those same Americans to come to their rescue.

These supposed titans of Wall Street owe the American people an explanation. We are being asked for the staggering sum of $700 billion, but not one CEO has come to Capitol Hill to apologize for their part in creating this awful mess. To add insult to injury, when Congress tried to limit CEO compensation for firms that would benefit from the plan, the administration resisted. They had the nerve to ask my constituents—who make about $48,000 per household—for money while they keep their multimillion-dollar salaries.

I think these CEOs need to come before Congress and explain how we got into this mess—and to explain their role. Now, I know they are not solely to blame. Regulators were asleep at the switch, the administration believed in letting markets run wild, Fannie Mae and Freddie Mac overextended themselves, and Congress failed to do adequate oversight. But as a businessman who firmly believes in markets, I am stunned that Wall Street engaged in the behavior that led us to this point.

I hope Congress will call some of these CEOs who are most involved in this meltdown to testify. The American people want to hear from them. I think they owe us all an apology. They should also explain what they plan to do in the future to make sure we never end up in this kind of crisis again. They should tell us what kind of regulations they think are necessary to avoid another crisis. It is the least they can do in exchange for the risks the American people are being asked to absorb on their behalf.

We have yet to see the details of this final bailout package. I am reserving judgment. I understand the delicate situation we are in and the risks we face, but I am wary of being rushed into a quick decision. I would prefer a solution that does not provide the $700 billion all at once but provides part of it now and more later, if necessary. We can reconvene and raise the amount at any time with short notice, so I do not see the necessity of providing everything upfront. Any bailout needs rigorous oversight. We must limit CEO compensation, and it should also give the taxpayers a chance to share in any profits that may result.

This is not our money we are handing to Secretary Paulson. It is the taxpayers'. I never forget who I am working for, and the people I serve are furious they are being asked to give $700 billion to the very investors who have made such bad decisions. No one wants to plunge the economy into chaos, but we need to make sure we take our time and get this right because if we do not, we will be back here again, and the stakes will be even higher.

UNANIMOUS-CONSENT REQUEST—S. 3325

Mr. KOHL. Madam President, I am going to yield the floor, but before I do, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 964, S. 3325; that the committee amendments be withdrawn, a Leahy substitute amendment which is at the desk be agreed to, the bill, as amended, be read a third time and passed, and the motions to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COBURN. Madam President, reserving the right to object, I would tell the Senator from Wisconsin I agree with the purposes of this bill. At the beginning of the 109th Congress, I held two hearings on the west coast on the policy associated with our IPs. I am strongly supportive of what you are doing. However, there is a conflict presently in negotiations on this bill about metrics and oversight which has not been worked out.

My consternation is we are going to put $300 million plus into this program, but we are not going to force the Justice Department to tell us what they are doing with it. Until such time as there are some teeth to make the Justice Department do what we tell them to do and report to us what they are doing, I am going to have to regretfully object. So I therefore offer an objection.

The PRESIDING OFFICER. Objection is heard.

ORDER FOR RECESS

Mr. KOHL. Madam President, I ask unanimous consent that the Senate recess until 5:30, following the remarks of Senator COBURN.

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

INTELLECTUAL PROPERTY RIGHTS

Mr. COBURN. Madam President, I wish to expand a minute on the purposes of this.

The American people should know we have a law called the improper payments law where every agency is supposed to report to Congress every year the amount of improper payments, both over and under, and how that affects their budgets and their goals. Less than 50 percent of the agencies file that report with Congress. The reason they don't is because we don't make them. We don't say: Your funding is contingent upon you following the law. So, regrettably, I objected to what Senator KOHL—I actually agree with the things we are doing in the bill, but we won't accomplish what we want to accomplish if we don't make the Justice Department report to us and have metrics to see that the money we are going to spend—not ours; actually, it is going to be the money of the next generation—is spent wisely and is effective in doing what we want to get done.

It is my hope before we leave here that we can work out a compromise. I have spoken with Senator SPECTER. I have not had a chance to visit with Senator LEAHY. I intend to do that today. We have given in a lot of areas on this bill, especially the spending amounts.

I also note the Justice Department ended last year with $1.72 billion in unobligated balances. They are the only agency that gets to keep their money, and they get to decide—not us—what they are going to do with that $1.72 billion. So there is plenty of money in the Justice Department right now to do this program.

We have to decide whether we are going to put teeth in what we tell agencies to do. My hope is we will start doing that.

I was going to spend some time now talking about the continuing resolution. I am going to reserve that and try to come back at a different time and try to reach Senator SPECTER and Senator LEAHY on this IP bill in the hopes we can get something worked out.

With that, I yield the floor and note that we would obviously be in recess.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 5:30 p.m.

Thereupon, the Senate, at 4:03 p.m., recessed until 5:34 p.m. and reassembled when called to order by the Presiding Officer (Mr. NELSON of Florida).

Mr. DURBIN. Mr. President, it is my understanding the leaders are discussing the schedule for the rest of the day. Members are certainly welcome to come to the floor if they want to make statements in morning business. But in the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FLOOD DEVASTATION IN LOUISIANA

Ms. LANDRIEU. Mr. President, I know that throughout the Capitol, even at this relatively late hour, there are many meetings going on as Senators and members of the administration and House Members and leadership and rank-and-file struggle with how to address some of the major challenges before our Nation, both domestically and internationally.

Of course, Mr. President, you are aware that while all of these issues are going on, for those of us in the South, we have a special mission, if you will, and our attention has been drawn in the last few weeks to the terrible devastation that has occurred not just in Louisiana, not just in parts of Mississippi, not just in Arkansas, but, of course, in Texas as well, where not one storm, not really two, but, Mr. President, as you are aware, three pretty

major hurricanes, starting with Fay, came through Florida with drenching rain, rain, rain, and not just in the State of Florida because as that storm moved its way up through the central part of our State, it flooded vast areas of the central part of our country.

Then, as people were drying out and cleaning up from the wreckage of these storms, with levees overflowing, creeks rising, farmers struggling, and communities trying to keep dry, lo and behold, here comes Gustav into the gulf, skipping Florida this time, no direct hit—although you have been hit so many times in the last few years—but slamming right into the coast of Louisiana, as ironic as it would seem, literally almost to the day of the third anniversary of Katrina, which was the worst catastrophe. And we say natural disaster, but actually it was a manmade catastrophe because had the levees that we made held, the city would not have gone underwater, or the region. So it was both a natural and manmade disaster. On the third anniversary, Gustav comes through, with its great tidal surge in south Louisiana. It caught part of Mississippi, as well as a little bit of Texas, but it swept through all 64 parishes in Louisiana with hurricane-force winds.

Now, this is not usual for us. We usually have terrible storms, such as Hurricanes Rita and Katrina, without the levee breaks, where the damage is localized to the southern part of our State. But not Gustav. Gustav came through as a category III and then II, and then the winds moved through our entire State. Louisiana was in that path.

Just as we were catching our breath and the lights were starting to come back on after weeks, Ike comes roaring in—yes, directly into Galveston and into that path of Houston, but, as you know, the eastern bands are the worst, and to the east of Galveston and to the east of Beaumont, lo and behold, lies southwest Louisiana and coastal Louisiana yet again.

I tell my family that I feel as if—not just for me but the people I represent—we are living literally the chapters of Job, I mean for the last several years, just suffering after suffering after suffering.

This Congress has been very good, particularly the leadership now, to step up. Even at times when, in my view, the administration turned a cold shoulder for whatever reason, this Congress stepped up and did yeoman's work, basically pushing forward on 100 percent reimbursement when we needed it and, when there was some reluctance to do so at the administration level, giving us more community development block grants, and I could go on and on. We are very grateful.

But I had to come to the floor today, Mr. President, to speak again on behalf of the 64 parishes in Louisiana and the southern part of our State. Senators, of course, will speak for their own States, but I am well aware, having been in conversations with Senator HUTCHISON of Texas earlier today and Senator BLANCHE LINCOLN from Arkansas and other Senators, that the southern part of our State, particularly when it comes to our rural areas and to agriculture, is currently being overlooked, and I am here today to call attention to this fact and to try to lay out some data for the record in hopes that sometime before we leave here we might make a few corrections to this situation because it would be tragic and devastating to not just hundreds but thousands of families in these rural areas.

Right now, as I speak, people in these areas are looking out at their fields and seeing complete and total destruction. These storms hit not at planting time, not in the middle of the season, but at harvest time, and because the Fay rains delayed the harvest—and, of course, you know how our crops are harvested, Mr. President. You can't harvest crops in the middle of torrential downpours, so the farmers who were ready waited. We had beautiful crops in the field. We had soybean that looked beautiful. We had cotton. Our sweet potato crop looked promising. We are growing a lot more corn. In Louisiana, we grow it all. We are not a State that grows just one crop. We have vegetables, but primarily it is cotton, soybean, rice, and now our sweet potatoes are growing in many more places, not just south Louisiana. So our farmers were literally giddy with excitement. Only 4 months ago, we were thinking we were going to have a Record, a banner agricultural year.

I am sure people were making plans for expansion and new investments and perhaps even acquiring new land or expanding their lease arrangements. Literally within a matter of 90 days, the world turned upside down. The world seems to be turning upside down right now in another sector, in the financial markets. As that world is turning upside down, this Congress is turning with it and all attention right now is focused on Wall Street and financiers and the lack of credit in New York, on the east coast to the west coast. But I am here to tell you there is a credit crunch, a credit crisis right now in the heartland and nobody is talking much about this.

We have a $700 billion bailout bill under consideration. I have not heard in the last 2 weeks from anyone—from the Fed to the White House to many of the leadership here in Congress—about any kind of credit crunch happening in small towns, on Main Streets, the heartland, the backbone of this country when it comes to agriculture. I can tell you there is a lot of anxiety and a lot of fear where I come from.

I visited some of my farms last week. I went up to northeast Louisiana to see for myself. I have been getting calls, hearing some dire reports, so I thought I better go look and see myself because I am sure—I don't know, but I would venture to say there hasn't been anybody from the U.S. Department of Agriculture up there lately. I thought, since I am a Senator from Louisiana, I would go up and look myself.

I am going to put up some pictures here because I was so taken by what I saw that I had my staff blow up some photographs. This is the rice crop in Cheneyville, LA. Of course it is completely ruined. The rice is sprouting in the fields, unable to be harvested. These fields are not able to be drained. That is the rice crop.

I want to show a picture of our cotton crop in north Louisiana. And I have a few other photos to share about sugarcane, sweet potatoes, et cetera. This is our cotton crop right here. Again, literally 8 weeks ago this was the most beautiful cotton you could see, for miles and miles. Louisiana, even though we talk a lot about tourism and we talk a lot about the port and oil and gas, we are by nature a very strong agricultural State. Not every State in the Union is such, but we are. We have thousands of acres under cultivation. This is what our cotton looks like. It cannot be harvested. The farmers who were desperate to try to get in there and harvest what they could have been turned away at the gin because the gin is unable to process this cotton. So we are going to have 100 percent losses on some farms, 50 percent losses, 45 percent losses, at a time when the farmers have put every penny they had into their crop, waiting to pull it out. At that moment the rains came.

When you talk about a credit crunch, I know it may be tight on the east coast and the west coast, but it could hardly get tighter than in small places that I know of in Louisiana. I am sure this is true of Texas and Arkansas.

We are not asking for $700 billion. We are not even asking for $50 billion. We are not even necessarily at this moment asking for $10 billion. But we have to have something before we leave. We have to have something before we leave.

When I saw this, I thought surely the Department of Agriculture is on top of this—because I have one staff person who does agriculture—one. The Department of Agriculture—I don't know, but I am going to put in the RECORD how many employees they might have. I am sure it is thousands. I am going to put into the RECORD the exact number. So I say to myself: Don't worry, Senator, there is a whole Department of Agriculture out there. Surely the people whose job it is to record this would have been down to either Louisiana or Texas or Mississippi or Arkansas to take pictures and maybe help declare a disaster.

On Wednesday I had a hearing and asked the Secretary to come before our committee, to ask him if he has the intention of declaring a disaster in Louisiana. He said he was not sure. When I pressed him for when he might declare a disaster, he did not know. They said they are getting the figures in as we speak.

I have the figures from our Commissioner of Agriculture. I am going to submit them for the record. But the preliminary figures that we have been scrambling to get in the last few weeks, from L.S.U., and from our research centers and extension service centers, say it is a minimum of a $700 million loss just in Louisiana.

I know Texas is still struggling. The people just got back to Galveston yesterday. We still cannot get into Cameron Parish, which is the parish closest to Texas, along our border, because it is that devastated and flooded. We only have 10,000 people who live there, but it is a great farming and ranching community. Yes, I admit our numbers are not completely in from Cameron. But it doesn't take a month to get numbers from Richland Parish. It doesn't take a month to get numbers from Madison Parish. I suggest somebody who works for the Department of Agriculture might want to spend a little time looking at central and north Louisiana so we can get our numbers in.

I thought not only would they do that, they would have declared a disaster and we would have a program to help. You know what I found out when I came back? We had created a program in the last farm bill—that is the good news. The bad news is the regulations have not yet started to be written.

Let me be clear. We passed a bill. There is a new program. They have started very briefly to write these regulations but, according to the testimony I received—I am going to submit the full testimony for the RECORD—the regulations are ''not imminent.''

I will wrap up. I ask unanimous consent for 2 more minutes.

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

Ms. LANDRIEU. The Under Secretary said—when I said, Could these regulations be written in 3 months? Could they be written in 6 months? Could they be written within the year?—Let me just say, Senator, ''they are not imminent.''

I said, What exactly does that mean? So our farmers have nowhere to ask for help?

Well, that is about it.

That answer is not acceptable to this Senator. If we are dealing with a credit crisis and can, in 5 days or 7 days, put together a $700 billion bailout for the financiers who bet on the price of cotton and soybean and wheat and sweet potatoes and sugarcane, we most certainly can spend a few days and a few billion dollars supporting the men and women who actually grow it.

That is why I am going to spend some time today, tonight, tomorrow and the next day, until I hear from the leadership—the Republican leadership, the Democratic leadership, or from the leadership at the White House—about what we can possibly do to get some help to farmers in the middle of the country who need our attention.

The program that will help them, the regulations have not been written. They can't even apply until next year. They have to go to the bank next week. When they go to the bank, if we don't do something here, the bank is going to say I can't lend you money because I can't get it from the elevator, the elevator can't get it from the importer or exporter, and it is a chain event that will result for the people whom we all represent—who have not borrowed one penny inappropriately, who were not engaged in subprime mortgages. All they do is work hard before the Sun comes up and as it goes down they are still working; who pay their bills and pay their mortgages. In their time of need this Congress is going to walk out without leaving a few pennies on the table for them? I don't think so.

I have brought this to the attention of the Appropriations Committee in a letter I wrote several weeks ago. I guess the letter was not written strongly enough to get the attention we needed, so I am going to continue to speak and make phone calls and hold meetings and organize as best I can a group of Senators and House Members who represent the southern part of this country and the breadbasket of America, the central interior part, to say while we are bailing out the financial coasts, we have our energy coast, which is a whole other speech that I could give, underwater, our rigs are toppled, now our crops are down in the field down in the south, in the gulf coast, and we cannot even get a quorum in a meeting to take care of this.

Let me say generally, the chairman of the Agriculture Committee, TOM HARKIN, has been very sensitive. I brought this matter to him and he conducted a joint hearing with me, so I thank publicly Senator HARKIN. I thank KAY BAILEY HUTCHISON for phone calls and meetings. I thank BLANCHE LINCOLN. I am sure there will be other Senators who can recognize the damage done, not just to Louisiana but to their States as well, and recognize that the program we have, the regulations have not been written and it is not going to help.

Let me also mention Senator KENT CONRAD who helped design that program. He has said to me, and will probably speak on this, that he recognizes the program that has been designed is not sufficient and we do need special help.

I am going to conclude by saying I will be back on the floor in the morning and many times throughout this weekend as we work through these major bills on defense, homeland security, the Wall Street bailout. But I am going to continue to press for some appropriate immediate relief, targeted and specific to the counties and to the parishes and farmers and farm communities that need the most help. Certainly these Americans who have done nothing wrong but work hard and just got caught in a confluence of terrible rains and bad storms can get the help they need.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SANDERS). Without objection, it is so ordered.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 2008

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 6063 and the Senate proceed to its immediate consideration.

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

The assistant legislative clerk read as follows:

A bill (H.R. 6063) to authorize the programs of the National Aeronautics and Space Administration, and for other purposes.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Nelson of Florida and Vitter substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 5648) was agreed to.

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

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

The bill (H.R. 6063), as amended, was read the third time, and passed.

Mr. NELSON of Florida. Mr. President, we have just passed the NASA reauthorization bill. It is noteworthy that next week, October 1, is the 50th anniversary of the start of the National Aeronautics and Space Administration, and if my colleagues will recall, that was 1958. My colleagues may remember what was happening. The Soviet Union had surprised us by putting into orbit the first satellite, Sputnik, and America, in the midst of the Cold War among two superpowers, was absolutely shocked that we were behind in our technology; that we could not be premier. Then, lo and behold, 3 years later, they shocked us again by putting the first human in orbit, Yuri Gagarin, for one orbit when, in fact, we only had a rocket, the Redstone, that could get a human into suborbit. Then, we put Alan Shepard and subsequently Gus Grissom in suborbit, and then, in the meantime, the Soviet Union put Titov into several orbits. Of course, the

eyes of the world then focused in on Cape Canaveral, when a young marine, one of the original seven American astronauts, named John Glenn, climbed into that capsule knowing that the Atlas rocket had a 20-percent chance of failure. He rode it into the heavens for only three orbits. There was an indication on the instrument panel that his heat shield was loose, and as he started the deorbit burn, John Glenn knew that if that was an accurate reading, on reentry into the Earth's fiery atmosphere, heating up in excess of 3,000 degrees Fahrenheit, he would burn up. It is that memorable time when we heard his last words before he went into the blackout period on radio transmissions: John Glenn humming ''The Battle Hymn of the Republic.'' It is hard to tell that story without getting a lump in my throat.

Of course, what then happened, months before we flew John Glenn, we had a young President who said: We are going to the Moon and back within 9 years. This Nation came together. It focused the political will, it provided the resources, and it did what people did not think could be done.

A generation of young people so inspired by this Nation's space program started pouring into the universities, into math and science and technology and engineering. That generation that was educated in high technology has been the generation that has led us to be the leader in a global marketplace by producing the technology, the innovations, the intellectual capital that has allowed us to continue to be that leader.

So it is with that background that this Senator, who has the privilege of chairing the Space and Science Subcommittee within the Commerce Committee, wants to say: Happy birthday, NASA. We are sending to the House of Representatives tonight this NASA reauthorization bill, which will give the flexibility to the next President, and his designee as the next leader of NASA, the flexibility in a very troubled program that has not had the resources to do all the things that are demanded of it to try to continue to keep America preeminent in space; also to continue to have access to our own International Space Station that we built and paid for; and then to chart out a course for the future exploration of the heavens that will keep us fulfilling our destiny of our character as an American people, which is that by nature we are explorers and adventurers.

We never want to give that up. If we ever do, we will be a second-rate nation. But we would not because we have always had a frontier, a new frontier. In the development of this country, it used to be westward. Now it is upward and it is inward and that is the frontier we want to continue to explore.

So happy birthday, NASA. It is my hope that we will have the House of Representatives take this up on their suspension calendar tomorrow.

I wish to give great credit to the staff who are in the room for the majority and the minority. They all have worked at enormous overload—Chan Lieu and Jeff Bingham. Jeff, despite the fact of having suffered a heart attack earlier this year, and we didn't even let him out of his recuperative bed but that I was on the phone with him getting him to start corralling all these other Senators and House Members so we could get a consensus, so we could come together in an agreement.

The result tonight is the fact that this has been cleared in a 100-member Senate, when Senators are on edge and they are always looking for something to object to, and there is no objection here, as ruled by the Presiding Officer.

My congratulations to all the people, to the staff of the Commerce Committee, and to the staff of the Science and Technology Committee in the House of Representatives, chaired by Congressman BART GORDON of Tennessee. I am very grateful for everybody coming together and making this happen.

Mr. VITTER. Mr. President, I am delighted to join my subcommittee chairman, Senator BILL NELSON, in bringing this legislation to the floor for consideration and passage. I share his belief that this legislation is an important statement of overwhelming congressional intent regarding the future of our Nation's civil space programs.

This statement, in the form of legislation we expect to have the near-unanimous support of the Congress, comes at a crucial time for NASA and its important programs. Not only do we, as authorizing committee members, believe it is our responsibility to regularly and consistently offer legislation to authorize appropriations levels, but also to provide a policy framework and guidance for the effective and efficient use of those appropriations. The passage of this bill will represent the first time in over 20 years that NASA authorization bills will have been adopted back-to-back by the Congress.

This week we celebrated NASA's 50th anniversary of the legislation that brought NASA into existence on October 1, 1958, and began this Nation's concerted effort to explore the heavens above us, and the universe beyond.

NASA also finds itself at a unique moment in its history, where it is undertaking a major shift in its contribution to the human exploration and utilization of space. In just two more years, we will see the completion of the International Space Station, which NASA has been developing, in cooperation with its 16 international partners, to serve as a unique laboratory in space—one that will finally be equipped with its full complement of research facilities, and inhabited by a full crew of six astronauts and researchers.

Three years ago, the Congress enacted legislation which, among many other things, designated the U.S. portion of the space station—and the roughly fifty percent of our partner-built laboratories that we are allocated in exchange for launching and operating the station and its modules—as a National Laboratory. Already we are seeing the interest in using those unique orbiting facilities increase, as Memoranda of Understanding have been signed between NASA and the National Institutes of Health and the U.S. Department of Agriculture to pave the way for their use of those facilities for research that will benefit life on Earth. Other agreements have been signed and more are under development. The research future of the space station is beginning to shine brighter than it has in recent years.

NASA is preparing itself to turn its own focus outward from the Earth, once it has completed paving the way for others to carry forward the utilization of the space station and low-earth orbit. This legislation, like its predecessor in 2005, underscores the congressional commitment to see that new mission move forward—and even more quickly than currently planned, in terms of developing the postshuttle vehicles that will enable that new Vision for Exploration.

I am especially pleased that this legislation includes the clear recognition of a unique and important facility in my own State—the Michoud Assembly Facility—the important role it will play in the development and production of the space shuttle replacement vehicles, as it has done for over a quarter of a century in the space shuttle program. It includes language that will help to clarify the details of that role, for Michoud and for the other NASA facilities and Centers that most directly support human space launch development and operations, such as the nearby Stennis Research Center, the Marshall Space flight Center, Johnson Space Center, and, of course the Kennedy Space Center.

All of these facilities—and their extremely talented and capable employees—are facing what could be a difficult transition, as one system winds down and another grows up to take its place. This legislation demonstrates that the Congress is aware of the fear and uncertainty that can accompany such a transition, and includes initial steps we have taken to mitigate these concerns and address the impacts of such redirection of work and skills. We must act quickly and effectively to minimize the disruption of jobs—and people's lives and livelihood. Some of those impacts are already being felt, in Michoud and other facilities, as certain of the activities to support the space shuttle program are already winding down. The legislation includes language to help us know, well in advance, when more of those kinds of changes will occur, so that we can monitor them and ensure the tools and resources are in place to deal with them.

We have also been able to address the situation that has arisen recently as

the result of concerns about availability of Soyuz vehicles to ensure we can have crew access to the space station—and a crew escape capability should it ever become necessary for the crew to quickly return to Earth. While specific steps are being taken in other legislation to address this issue, which is outside the jurisdiction of the Commerce Committee, our bill will ensure we will retain the option, at least, to continue space shuttle flights for some period of time, should that prove to be necessary to ensure effective use of the space station. The bill ensures that such an option is preserved, at least until the end of April, next year, so that the new administration and the Congress will have time to consider the need or desirability of taking that step. And the bill includes a provision that will ensure the Congress will have the results of a study already under way within NASA, which would identify and quantify a range of options for continued shuttle operations over a range of time periods.

An important message this legislation is intended to send is that NASA should have the resources it needs to carry out the unique and valuable programs that it is asked to conduct for the American people. Those programs include a wide range of activity beyond human spaceflight. Space Science, such as carried out by the Hubble Space Telescope and the other Great Observatories, and the incredible success of Martian rovers and interplanetary probes, are not only exciting and thrilling to watch, but, like their human spaceflight counterparts, help inspire entire generations to pursue science, technology, engineering and mathematics in school—and help guarantee the Nation's strong leadership role in the global community of nations. NASA's Earth science programs provide answers about our own spaceship Earth that are essential to help us understand and use the resources our earthy home wisely and understand the true nature of our impact on the environment, and ways we can help mitigate those impacts responsibly.

Research in advanced concepts in aeronautics carried out by NASA plays a key role in ensuring the safe and efficient operations of our aviation industry, and in identifying the new technologies and systems that will drive the future developments of aeronautics systems and vehicles that we cannot even imagine today.

In short, the legislation provides a balanced level of funding and emphasis on all of NASA's key missions. To do all of these things, we have increased the authorized funding levels for NASA more than $2 billion above the amount requested for fiscal year 2009. We do not do so with the expectation that such an increased level of funding will be able to be appropriated. We understand the fiscal challenges we all face and I am among those who has and will always stand for reducing the size of government and ensuring that the government moves more in the direction of doing only those things that cannot be done by the private sector.

I believe that what NASA does, when it works at the leading edge of science and exploration, is doing things that no other entity, public or private, can do. We must be sure to always be alert, however, for opportunities for NASA to help private and commercial entities use the new technologies and techniques developed in research to place themselves in a position to move into areas once seen as the purview of NASA—such as the commercial orbital space transportation system, intended to enable private entities to provide launch and cargo—and one day crew—delivery to and from the International Space Station. This legislation includes provisions to help ensure the expanded development of a commercial space industry that can effectively—and economically—operate in both low-earth orbit and eventually participate in the exploration of the Moon—and beyond.

I believe we need to view the funds authorized to accomplish NASA's objectives more as investments than simply expenditures. We have had 50 years of experience which demonstrates that money invested in NASA programs yields technology gains and scientific excellence that has provided massive returns on that investment. One doesn't have to look very far to see the benefits to mankind from those programs. To list them all—even the obvious ones—would take volumes.

In years past, there have been efforts by private economic experts to quantify the value returned to the economy of this Nation from the product of NASA research and exploration. Those estimates have ranged from $7 to $9 returned to the economy for every dollar spent by NASA. Such estimates are hard to prove beyond a shadow of doubt and are based on assumptions that mayor may not be valid. But even if they are wildly exaggerated, and the return on investment is only something like $1 back to the economy for every dollar spent. How many government programs could one say that about?

I have described some of what I believe to be the very important and positive aspects of the legislation and the agency programs and initiatives it supports. We also have important and difficult issues that will need to be addressed which we have not been able to fully deal with in this bill. Many people are deeply concerned about the fact that, between the retirement of the space shuttle, planned for 2010, and the availability of the Ares 1 Rocket and the Orion Crew Exploration vehicle, there could be a 3- to 6-year gap, during which this nation would not have the capability to independently launch humans into space. That this period of time—however long it proves to be—would begin, under the present plan, precisely at the time we have finally completed the space station and it is available for research and scientific uses, makes that gap even less acceptable. It makes little sense for us not to be able to get U.S. scientists and astronauts there to conduct the long-awaited research that can only be done in that unique microgravity environment.

As I mentioned we have attempted to address part of that problem in language and authorized funding that would accelerate the development of shuttle replacement vehicles. That addresses the ''back end'' of the gap. But I would like to have seen more flexibility in the bill to enable the assessment of other options, besides extension of the shuttle program, or even in combination with that, to develop alternative capabilities in the short-term. We were unable to preserve the flexibility we had started with in our reported bill during the preconferencing and negotiations with the House leading to the agreement on the language we are presenting today. But I hope we will be able to more thoughtfully and fully address that issue as we begin next year to develop the next NASA Reauthorization Act.

I believe this legislation represents a strong and important message of support for ensuring the United States maintains its leadership position in space exploration. I remind my colleagues that the substitute amendment we are offering has been fully agreed to in advance by the House Science Committee, and the amended House bill can be swiftly accepted by the House when we return it to them, and sent to the President before this Congress adjourns for the year. I urge my colleagues to support passage of our substitute amendment to the House bill.

GREAT LAKES LEGACY REAUTHORIZATION ACT OF 2008

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6460, which was received from the House.

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

The assistant legislative clerk read as follows:

A bill (H.R. 6460) to amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that a Levin amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5649) was agreed to, as follows:

(Purpose: To limit the duration of reauthorization)

Strike section 3(f) and all that follows and insert the following:

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 118(c)(12)(H) of such Act (33 U.S.C. 1268(c)(12)(H)) is amended—

(1) by striking clause (i) and inserting the following:

''(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2010.''; and

(2) by adding at the end the following:

''(iii) ALLOCATION OF FUNDS.—Not more than 20 percent of the funds appropriated pursuant to clause (i) for a fiscal year may be used to carry out subparagraph (F).''.

(g) PUBLIC INFORMATION PROGRAM.—Section 118(c)(13)(B) of such Act (33 U.S.C. 1268(c)(13)(B)) is amended by striking ''2008'' and inserting ''2010''.

SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.

Section 106(b) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a(b)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—In addition to any amounts authorized under other provisions of law, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2010.''.

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

The bill (H.R. 6460), as amended, was read the third time and passed.

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION REAUTHORIZATION ACT OF 2007

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 2786, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2786) to reauthorize the programs for housing assistance for Native Americans.

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

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that a Dorgan substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5647) was agreed to.

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

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

The bill (H.R. 2786), as amended, was read the third time and passed.

AUTHORITY TO REQUEST RETURN OF PAPERS

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to request the return of the papers on H.R. 3068 from the House of Representatives.

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

Mr. NELSON of Florida. 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. 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.

TRIBUTE TO SENATORS

WAYNE ALLARD

Mr. FEINGOLD. Mr. President, today I wish Senator ALLARD well as he leaves the Senate, after 12 years here and 6 years in the other body. That is a long record of honorable service to the wonderful State of Colorado. During our time together in the Senate, I was very pleased to work with Senator ALLARD on a critical issue facing both our States: chronic wasting disease. I appreciated his commitment to fighting the spread of CWD, which was characteristic of his commitment to the people of Colorado throughout his time here. I wish him all the best as he leaves the Senate, and I thank him for his years of dedicated service to our country.

LARRY CRAIG

Mr. President, as Senator CRAIG retires from the Senate, I want to take a few moments to recognize him and thank him for his work on behalf of the people of Idaho. He devoted 18 years to serving the people of Idaho in the Senate, following 10 years of service in the House of Representatives. Senator CRAIG and I worked together in two very different, very important areas: protecting civil liberties and supporting America's dairy farmers. In both cases, he was dedicated to the best interests of the people of Idaho, and I am grateful for his efforts.

Senator CRAIG was a key member of the group of six Senators—three Republicans and three Democrats, including myself—who worked together to try to strengthen the protections for Americans' privacy rights in the Patriot Act reauthorization that we considered in the Senate during the 109th Congress. His willingness to work across party lines on that issue was commendable, and it was a critical boost to our efforts. Senator CRAIG understands the importance of protecting Americans' freedoms, and I applaud his commitment to these issues.

I also thank him for his consistent support of dairy farmers, another area where we frequently worked together. Senator CRAIG and I shared concerns about the impact of the Australia free trade agreement on dairy farmers, on the threat of unsafe importation of milk protein concentrates, and on nonfat milk price reporting errors.

Once again on these issues, Senator CRAIG put the needs of the people of Idaho first, and reached across the aisle to protect hardworking dairy farmers. After 28 years of service in Congress, Senator CRAIG is retiring from the Senate, and I wish him all the best. His hard work and dedication have made a valuable contribution to the Senate and to the American people.

PETE DOMENICI

Mr. President, today I thank Senator DOMENICI for his 36 years of service here in the Senate, longer than any New Mexican in the State's history. I have had the pleasure of serving with Senator DOMENICI on the Budget Committee, where his leadership has been a cornerstone of the committee's work for decades. I have always appreciated his willingness to listen to and accommodate different points of view through the years. I also thank him for his work on biennial budgeting, something I also strongly support and was proud to work on with him.

Senator DOMENICI's commitment to mental health parity is well known and deserves special recognition. It is fitting that, on the eve of Senator DOMENICI's retirement, the Mental Health Parity Act of 2008, which he worked on with Senators DODD, KENNEDY and ENZI, should pass the Senate. I was pleased to cosponsor this bill and look forward to it being enacted.

Finally, I thank Senator DOMENICI for his vote in support of the McCain-Feingold legislation when it passed the Senate in 2002. It was his support, along with 59 other Senators, that gave us that victory after a long fight to ban soft money. I will always remember and appreciate his support, and I wish him all the best as he retires from the Senate.

CHUCK HAGEL

Mr. President, today I recognize the work of an outstanding colleague, Senator CHUCK HAGEL. As he leaves the Senate, there are many things he will be remembered for, and I will add a few to that long list. I have had the pleasure of serving with Senator HAGEL on both the Foreign Relations and Intelligence committees, where I have seen what a thoughtful and dedicated public servant he truly is. He has been an outspoken and independent voice on foreign policy, and against the current Administration's reckless foreign policies, including the disastrous war in Iraq.

In our time serving together in the Senate, we have worked on a number of bills relevant to our work on the Foreign Relations and Intelligence committees. Senator HAGEL and I authored a bill to address the serious threat posed to our national security by gaps in our intelligence gathering. Building

on the work of the 9/11 Commission, our legislation would establish an independent commission to improve how the U.S. Government collects and analyzes information, so that we can head off emerging threats. Senator HAGEL has brought critical attention to this issue, and I have no doubt he will continue to do so in the years ahead. I also appreciate Senator HAGEL's commitment to strengthening our citizen diplomacy, which is so important to improving the image of the U.S. abroad. His support for my Global Services Fellowship Program Act, and past efforts on this issue, has been just one more example of Senator HAGEL's willingness to reach across the aisle to work on issues important to our country.

As chairman of the Senate Foreign Relations Subcommittee on African Affairs, I particularly appreciate Senator HAGEL's support for a more peaceful, secure, and prosperous Africa. He has supported efforts to help protect civilians and provide them with access to basic services. His voice has been one for political solutions to conflict, and for initiatives that would bring long-term stability to the continent.

Senator HAGEL has served the people of Nebraska, and America, with great dedication and skill. I will miss having him as a colleague, but I value his service and his friendship, and I wish him all the best as he leaves the Senate.

JOHN WARNER

Mr. President, today I thank Senator JOHN WARNER for his service to our country. Through his five terms in the Senate, and before that as Secretary of the Navy, Senator WARNER has been an outstanding public servant. In the Senate he has worked hard for our country, and for the people of Virginia. As chairman and now ranking member of the Senate Armed Services Committee, Senator WARNER has been a leader on a wide range of issues affecting our national security, and he has always approached those issues with the utmost determination to do what is best for the Nation and the American people.

Finally, I thank Senator WARNER for his vote in support of the McCain-Feingold legislation when it passed the Senate in 2002. It was his support, along with 59 other Senators, that gave us that victory after a long fight to ban soft money. I appreciate his effort on this and so many issues, and I thank him for his dedicated public service over so many years.

WAYNE ALLARD

Mr. BUNNING. Mr. President, I rise today to pay tribute to a great U.S. Senator and friend, Senator WAYNE ALLARD. His strong political leadership will be greatly missed by the people of Colorado and the United States.

I got to serve with WAYNE on the Senate Banking, Housing, and Urban Affairs Committee and the Senate Budget Committee. As fellow fiscal conservatives, we share many of the same values and concerns. One of his core beliefs, and mine, is that we must reduce wasteful government spending and work to balance the Federal budget. This is a philosophy that WAYNE applied to every piece of legislation that came in front of him. It was important for him to do everything he could do as a public servant to save the taxpayers' money. I know that I could always count on WAYNE to follow these principals and stay true to his conservative roots.

As many of you know, WAYNE had a successful career as a veterinarian before he came to Congress. With the help of his wife Joan, they built a successful veterinary practice in Loveland, CO, where they raised their two daughters, Christi and Cheryl. As a veterinarian and as a U.S. Senator, WAYNE contributed more than most to the people of this country. He will be greatly missed by me here in the Senate, but I know he is looking forward to spending more time with his family back in Colorado. I wish WAYNE the best of luck as he begins the next chapter of his life.

LARRY CRAIG

Mr. President, I wish to join my fellow Senators to honor a colleague and a friend, Senator LARRY CRAIG, who is departing the U.S. Senate at the close of this Congress. I have enjoyed working with Senator CRAIG over the last 20 years—first in the U.S. House of Representatives and later in the U.S. Senate.

While in the Senate, I have had the great fortune of serving with LARRY on the Senate Energy Committee. He is a revered advocate of energy, public lands, and rural community issues. The two of us have stood together on numerous issues—most notably energy—and I have always believed that we could achieve any task because I had his voice of reason and intellect by my side.

Senator CRAIG has shown the ability to keep a close eye on issues that matter most to citizens back in Idaho, while also looking out for all Americans. Whether the issue of the day was rural schools, western ranchers, public water, innovative forms of energy, and yes, even wolves, Senator CRAIG has proven that he is up for any challenge.

I would be mistaken to not mention the extraordinary work Senator CRAIG has done as a member of the Senate Veterans' Affairs Committee. His work has been instrumental to ensure that all citizens who are part of our armed services—including servicemembers, family members and survivors of veterans—are provided the world-class care and benefits they have earned. I thank him for his relentless efforts to improve the lives of those who have worn the uniform.

I thank the senior Senator from Idaho for his leadership and contributions to public service for the people of Idaho and all Americans. I honor Senator LARRY CRAIG not only for his length of service but more importantly his quality of service. I wish him and his loved ones all the best of health for many years to come.

PETE DOMENICI

Mr. President, I rise today to pay tribute to a great U.S. Senator and friend, Senator PETE DOMENICI. His tireless work as New Mexico's longest serving Senator in history has greatly benefitted the people of his State and the United States of America. I am proud to have served with such a great statesman.

During his time in the Senate, PETE has been instrumental in passing thousands of pieces of legislation on many different issues. However, I got the distinct honor of serving with him on the Senate Energy and Natural Resources Committee, where he serves as the ranking member and former chairman. Over the years, he has been instrumental in passing comprehensive energy legislation to help our Nation adapt to changing energy needs and demands. By working side by side with PETE on the committee, I have gotten to witness firsthand the hard work he puts into every piece of legislation that comes before him. He also has the ability to reach across the aisle to other Senators who routinely join him in passing bipartisan bills to benefit our country. I know that I can speak for all of my colleagues, when I say that PETE's absence will be felt by all of us.

While I will greatly miss my friend's leadership on the Senate floor and in the Energy Committee, I know that he is looking forward to retirement and being able to spend some much-deserved time off with his wife Nancy and their family. I want to thank PETE for his contributions here in the Senate and wish him and his family well as they enter into a new chapter in their lives.

JOHN WARNER

Mr. President, I would like to honor my friend from Virginia, Senator JOHN WARNER. JOHN and I have been friends since I was elected to the Senate in 1998.

As a true Virginian, JOHN has dedicated his life to serving his country. At the age of 17 he enlisted in the U.S. Navy beginning his long career of public service. After serving on active military duty in both World War II and the Korean war, JOHN went on to serve in the Department of the Navy, and led the Department as Secretary from 1972–1974.

Elected in 1978, JOHN is the second longest serving Senator from the Commonwealth of Virginia in the history of the Senate. JOHN has served the people of Virginia well for 30 years and I know his family and the people of Virginia are proud to call him one of their own.

JOHN has a long list of accomplishments to show for the people of Virginia and the Nation. His leadership in the Senate will be missed and it has truly been an honor serving with him.

I would like to thank JOHN for his contributions to the Senate and wish him well as he opens a new chapter to his life.

CHUCK HAGEL

Mr. President, today I pay tribute to my distinguished colleague from Nebraska, Senator CHUCK HAGEL, who will be retiring from the Senate at the conclusion of the 110th Congress.

I have worked with CHUCK since coming over to the Senate in 1998. I have also had the privilege of serving on the Senate Banking Committee with CHUCK. He is a man of integrity and patriotism. CHUCK has served his country proudly throughout the years, whether it be working as a staffer for Congressman John McCollister of Nebraska, as Deputy Administrator of the Veterans Administration, as U.S. Senator, or earning the Purple Heart while defending the freedoms we enjoy today. He has a servant's heart and the people of Nebraska should be proud to have been represented by a man of his character.

I am honored to know him and to have worked with him. I would like to thank CHUCK for his contributions to the Senate and to the country we both love. I wish him and his family the best in all of their future endeavors.

DC GUN LAWS

Mrs. FEINSTEN. Mr. President, I rise today to speak in strong opposition to H.R. 6842, which would repeal the commonsense gun laws of the District of Columbia.

I believe this bill is reckless and irresponsible, and will lead to more weapons and violence on the streets of our Nation's Capital. It will endanger the citizens of the District of Columbia, the government employees who work there, our elected officials, and anyone who visits Washington, DC.

The House bill repeals laws promoting public safety, including DC laws that the U.S. Supreme Court indicated were permissible under the 2nd amendment in the Heller decision.

I strongly disagree with the Supreme Court's decision in Heller that the 2nd amendment gives individuals a right to possess guns for private purposes not related to state militias, and that the Constitution does not permit a general ban on handguns in the home.

However, it is important to note that Heller also stands for the proposition that reasonable, commonsense gun regulations are entirely permissible.

Justice Scalia, who wrote the majority opinion in Heller, noted that a wide variety of gun laws are ''presumptively lawful,'' including laws ''forbidding the carrying of firearms in sensitive places'' and regulations governing the ''conditions and qualifications on the commercial sale of arms.'' Even bans on ''dangerous and unusual weapons'' are completely appropriate under the Heller decision.

The House bill completely ignores this language and takes the approach that all guns, for all people, at all times is the only way to go after Heller.

It is worth noting just how far the House bill goes in repealing DC law and just how unsafe it will make the streets of DC.

The bill would do the following: It would repeal DC's ban on semi-automatic weapons, including assault weapons.

If this bill becomes law, military-style assault weapons with high capacity ammunition magazines will be allowed to be stockpiled in homes and businesses in the District, even near Federal buildings like the White House.

Even the .50 caliber sniper rifle, with a range of over 1 mile, will be allowed in DC under the House bill. This is a weapon capable of firing rounds that can penetrate concrete and armor plating. And at least one model of the .50 caliber sniper rifle is easily concealed and transported. One gun manufacturer describes it as a ''lightweight and tactical'' and capable of being collapsed and carried in ''a very small inconspicuous package.''

There is simply no good reason why anyone needs semi-automatic assault weapons in an urban city. It is unfathomable to me that the same high-powered sniper-rifle used by our Armed Forces in Iraq and Afghanistan will be permitted in our Nation's Capital. Yet this is exactly what the House bill would allow if passed by the Senate.

The House bill would repeal existing Federal anti-gun trafficking laws. For years, Federal law has banned gun dealers from selling handguns directly to out-of-State buyers who are not licensed firearm dealers. This has greatly helped in the fight against illegal interstate gun trafficking, and has prevented criminals from traveling to other States to buy guns.

The House bill repeals this long-standing Federal law and allows DC residents to cross State lines to buy handguns in neighboring States. Illegal gun traffickers will be able to easily obtain large quantities of firearms outside of DC and then distribute those guns to criminals in DC and surrounding States.

The House bill repeals DC law restricting the ability of dangerous and unqualified people to obtain guns.

The bill also repeals many of the gun regulations that the Supreme Court said were completely appropriate after Heller. It repeals the DC prohibition on persons under the age of 21 from possessing firearms, and it repeals all age limits for the possession of long guns, including assault weapons. The House bill even repeals the DC law prohibiting gun possession by people who have poor vision. Unbelievably, under the House bill, DC would be barred from having any vision requirement for gun use, even if someone is blind.

The House bill repeals all firearm registration requirements in Washington, DC. The bill repeals all registration requirements for firearms, making it even more difficult for law enforcement to trace guns used in crimes and tracing them to their registered owner.

The House bill repeals all existing safe storage laws and prohibits DC from enacting any more safe storage laws. After the Heller decision, DC passed emergency legislation allowing guns to be unlocked for self-defense, but requiring that they otherwise be locked to keep guns from children and criminals. The House bill prevents the DC City Council from enacting new legislation to replace the emergency law, as well as from enacting any laws that ''discourage'' gun ownership or require safe storage of firearms.

Every major gun manufacturer recommends that guns be kept unloaded, locked, and kept in a safe place. Under the House bill, DC could not enact any legislation requiring that guns be stored in a safe place, even in homes with children.

How can anyone believe that enacting these provisions in the House bill and eliminating DC's commonsense gun laws is the right thing to do?

The American people clearly do not agree with the House bill. A recent national poll found that 69 percent of Americans oppose Congress passing a law to eliminate Washington, DC's, gun laws. Additionally, 60 percent of Americans believe that Washington, DC, will become less safe if Congress takes that step.

As a former mayor who saw firsthand what happens when guns fall into the hands of criminals, juveniles, and the mentally ill, I believe that the House bill places the families of the District of Columbia in great jeopardy.

The bill puts innocent lives at stake. It is an affront to the public safety of the District of Columbia, as well as the right to home rule by its citizens.

This isn't just a bad law, it is a dangerous one. If this bill comes to the floor of the U.S. Senate, I will do everything in my power to stop it.

Mr. INHOFE. Mr. President, on June 26, 2008, in the landmark District of Columbia v. Heller decision, the United States Supreme Court decisively confirmed what Oklahomans have known for a long time: we as Americans have an individual right to legally possess and use a firearm.

Prior to the Heller decision, DC, had the most restrictive gun control laws in the country. The District effectively banned handguns in homes and required all licensed firearms to be unloaded and dissembled or bound by a trigger lock or similar device.

Not only did the Supreme Court deem the DC gun ban unconstitutional, it also positively affirmed that ''(t)he Second Amendment protects an individual right to possess a firearm unconnected with service in a militia, and to use that arm for traditionally lawful purposes, such as self-defense within the home.''

I was very satisfied with the Supreme Court's decision in District of Columbia v. Heller. Before the Supreme Court heard this case, the entire Oklahoma delegation signed onto an amicus brief to the Supreme Court, urging the

Court to affirm that the second amendment protects an individual right to possess firearms. With the signatures of Vice President CHENEY, 55 Senators, and 250 Members of the House of Representatives, this amicus brief had the support of more Members of Congress than any other amicus brief in known history.

Unfortunately, it did not come as a great surprise that soon after the Supreme Court decided the Heller case, the DC City Council began exploring new ways to restrict firearm possession in the District.

In response, on September 17, the House of Representatives passed the National Capital Security and Safety Act, H.R. 6842, by an overwhelming bipartisan vote of 266–152. This bill prohibits the DC government from passing any law to restrict firearms in a person's home, business, or land. Additionally, the legislation rolls back the restrictions that the DC government has implemented that prohibit the registration of certain types of firearms. The bill also allows residents of the District of Columbia to purchase firearms from licensed dealers in the neighboring states of Virginia and Maryland.

After the House of Representatives passed this important bill, I joined 47 of my colleagues in the Senate in sending a letter to Majority Leader REID asking him to bring up H.R. 6842 for consideration in the Senate. I sincerely hope that the Senate has the opportunity to debate and vote on this bill and send it to President Bush this year.

I have tenaciously fought to preserve the right of individual citizens to keep and bear arms since my first days in Congress. I will continue in this next stage of the battle over the interpretation of the second amendment.

CITIZENSHIP APPLICATION BACKLOGS

Mr. LEAHY. Mr. President, following Republican opposition to the Senate's effort to pass a comprehensive immigration bill last summer, President Bush and other Republicans moved on and away from this admirable goal. They chose, instead, to accommodate the most extreme views in their party with respect to immigration. Secretary Chertoff turned to mass immigration raids and building border walls that have consumed millions of taxpayer dollars, tread on the rights of property owners along the southern border, scarred the environment and tarnished the reputation of the United States around the world.

One aspect of the immigration debate on which I have continued to press this year is the backlog in citizenship applications. Last year, the administration insisted on a fee increase for citizenship applications and assured us it would cut processing time if authorized. That increase, along with the increased enforcement activities, and an impending presidential election, combined to result in a surge in citizenship applications. In just three months, May, June, and July of 2007, the immigration agency received over 700,000 citizenship applications. By last October, the agency had over 1 million citizenship applications pending, and a significant backlog had developed. Yet the administration did little. Its response reminded me of its preparations for Hurricane Katrina or the current financial meltdown. The anticipated surge in applications was not adequately planned for but resulted in a crisis before the administration would begin to notice.

In early 2008, Senator KENNEDY and I pressed Secretary Chertoff. We joined, along with Senator SCHUMER, in writing to the Homeland Security Secretary about this problem in advance of our April 2008 oversight hearing.

At the April hearing, I asked Secretary Chertoff for a firm commitment that persons who had applied for U.S. citizenship by March 31, 2008, would have their applications processed in time to register and vote in the upcoming Presidential election. Seven months should have been adequate to consider these applications, especially when the agency had sold the increase in fees to us by saying it would cut processing time to less than seven months.

When Secretary Chertoff sought to excuse his delays by blaming the Federal Bureau of Investigation, FBI, for being slow to clear name checks, we made sure to provide the FBI with additional resources.

At our most recent FBI oversight hearing with Director Mueller last week, I continued to raise the issue. At one point, the backlog in citizenship applications was 1 million. By this spring, it was still nearly half a million. After the most recent oversight hearing, we were told that it has been significantly reduced and now numbers in the tens of thousands. I thank the agents at the FBI and U.S. Customs and Immigration Services, USCIS, for their hard work.

The monthly updates we demanded have been helpful not only to us, but apparently also to encourage progress within the agency. That is, of course, still too many. No one who has been here, working hard, following the law, who has applied for citizenship more than 6 months ago, ought to be denied participation in the upcoming Presidential election because the Homeland Security bureaucracy has been too slow to process his or her application.

Now is the time for the agency to make a final push to process the remaining backlog of applications by the end of this month so that lawful immigrants will have time to register and will be able to vote. It is unacceptable that tens of thousands of people, some of whom have been waiting for 2 years to have their applications processed, will be left in limbo and unable to participate as citizens during the elections in November. So there is still significant work to do.

The Senate took an important step Wednesday night when it passed S. 2840, the Military Personnel Citizenship Processing Act. I am pleased the Senate has given its unanimous support to this legislation.

This bill is intended to help the Department of Homeland Security and USCIS expedite citizenship applications for members of the Armed Forces by creating a liaison with the FBI and by setting processing deadlines for these applications. Those who serve in our military and who wish to become citizens do not deserve to experience unnecessary bureaucratic delays. Their dedication to the United States, and their desire to become full participants in the democracy they help defend, ought to be met with a process that is as fair and efficient as possible.

The legislation the Senate passed last night will help to streamline the citizenship process for the legal permanent residents who have served the country they wish to call their own. I hope that this legislation will help move Congress toward seeking additional improvements in the citizenship process for everyone. The granting of citizenship is one of the most sacred privileges our Nation conveys, and only comes to those who have worked hard to achieve it. Ensuring that it is carried out with care and efficiency is a goal all members of congress should support.

I thank Senators SCHUMER and HAGEL for successfully moving this legislation through the Senate, and thank all Senators for supporting this measure.

I commend Senator KENNEDY, Senator SCHUMER and the other members of the Judiciary Committee who have worked with me all year in our oversight effort to ensure that the citizenship application backlog of 1 million would be eradicated. Senator KENNEDY, in particular, is someone who has been unrelenting in his focus on this issue and characteristically fought for fairness, dignity and the rights of those least powerful among us. Senator KENNEDY is our longtime chairman of the Immigration subcommittee, and has led the Senate on immigration matters for years. He asked me to express his appreciation to USCIS for its progress in clearing up the backlog in naturalization applications that otherwise would have deprived over a million eligible citizens the opportunity to participate in our democracy during this fall's election. He asked me to say that the right to vote is the most precious right that American citizens have. He welcomes these new Americans, and he urges them to go to the polls this November.

I hope that as a new administration takes office and begins to help this Nation rise above the divisiveness, corruption, and failures of the last 8 years, we can renew our commitment to immigration reform. The answer does not lie in policies based on fear or isolationism, but in a restoration of America's rightful role in the world. It does

not lie in denying children the opportunity for an education. It does not lie in denying American farmers and small business owners willing workers, nor does it lie in exploiting foreign labor to disadvantage American workers. And the answer does not lie in raiding workplace after workplace, tearing apart families, or building walls along our borders.

THE MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Mr. President, I wish 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 on many occasions to highlight a separate violent, hate-motivated crime that has occurred in our country.

On the evening of August 9, 2008, 24-year-old Michael Roike was leaving the Playbill Cafe a Washington, DC, area bar with three of his friends when they noticed an SUV parked next door nearby. The SUV carried several men who reportedly spoke with Roike and his friends. The conversation allegedly began casually but escalated when the men from the SUV repeatedly used the word ''faggot.'' One of Roike's friends, Stevon-Christophe Burrell, 29, allegedly became upset and asked the men to leave them alone. In response, a male from the SUV reportedly approached Burrell aggressively. Roike said he stepped between them and tried to diffuse the situation, but Roike recounts that he suddenly felt pain in the left side of his head and hit the ground. Burrell was also struck before the attackers fled back to the vehicle and drove away. While no suspects have been apprehended, the Metropolitan Police Department report lists the attack as a ''simple assault,'' filing it as a hate crime based on sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Matthew Shepard 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.

NATO MEMBERSHIP FOR ALBANIA AND CROATIA

Mr. CARDIN. Mr. President, the NATO Alliance is now considering its third round of post-Cold War enlargement. This will be the smallest of the rounds, with only two countries to consider compared to three in 1999 and seven in 2004. It should also be easiest, since the development of Membership Actions Plans allow NATO significantly more preinvitation interaction with aspirants today than took place in earlier rounds. Albania and Croatia were formally invited at the April NATO Summit in Bucharest, Romania. Macedonia did not receive an invitation because of its lingering name dispute with Greece, and several European allies were unwilling to go forward with Membership Action Plans for Georgia and Ukraine.

In March of this year, the Helsinki Commission, which I cochair, held a hearing on the prospects for NATO enlargement which included testimony from expert analysts and contributions from the embassies of these five countries. We have also had hearings on the matter in the Senate Foreign Relations Committee which included administration views. It is important for the Senate to act on these protocols quickly so that ratification by all NATO countries can be completed in a timely matter.

Turning to the records of the two aspirants, Albania has made tremendous strides since 1991, and the country is solidly committed to Euro-Atlantic integration. This is demonstrated by its contribution to numerous peace operations around the world. There are concerns about organized crime and official corruption in Albania, but I believe the country is well aware of these concerns and is continuing to undertake efforts to address them. The country is also aware of the need for further electoral reform before parliamentary elections next June.

Assistant Secretary of State for European Affairs Dan Fried credibly asserted before the Senate Foreign Relations Committee that ''countries continue reforms rather than abandon them, when they join the alliance,'' and this particularly applies to Albania given its ongoing EU aspirations. In that spirit, I want to express my support for Albania's NATO membership, which will strengthen the alliance as well as the prospects for further reform in Albania.

Croatia is clearly ready for NATO membership. Its democratic credentials are very strong. Recovering from the violent breakup of Yugoslavia, the country essentially shed its extreme nationalist leanings in 2000 and has been in rapid transition ever since. Croatia is also preparing for EU membership, boosting reform efforts, and it has become an increasingly active and helpful player in world affairs. I therefore want to express my strong support for Croatia's NATO membership as well.

CMS CERTIFICATIONS OF HRSA RURAL HEALTH CLINIC DESIGNATIONS

Mr. BAUCUS. Mr. President, yesterday we passed the Health Care Safety Net Act, which reauthorizes multiple programs within the jurisdiction of the Committee on Health, Education, Labor and Pensions, HELP. This bill does include one section that changes the timeframe for the Centers for Medicare and Medicaid Services, CMS, to certify rural health clinic, RHC, shortage area designations from 3 years to 4 years. We have worked closely with the chairman and ranking member of the HELP Committee to have language included in H.R. 3343 to align the timeframe for CMS certifications of rural health clinic designations with the timeframe for HRSA designations. This provision is crucial to maintaining access to primary care and other necessary medical services in rural areas. I know that several rural health clinics in Montana would be forced to close their doors if the CMS rule were permitted to go forth. I am proud to stand with my colleagues on both sides of the aisle to ensure that these important parts of our health care delivery system are protected.

We are most appreciative of the efforts of the HELP Committee to include this language at our request. As chairman of the Finance Committee, I am obligated to point out for the record that Medicare is exclusively governed by title XVIII of the Social Security Act, which is under the exclusive jurisdiction of the Finance Committee. Inclusion of these Medicare provisions in H.R. 3343 does not represent any waiver of the Finance Committee's jurisdiction on this subject. In the absence of the Chairman of the HELP Committee, Senator KENNEDY, I would ask the distinguished ranking member, Senator ENZI, to acknowledge that Medicare is governed by title XVIII of the Social Security Act and is under the exclusive jurisdiction of the Finance Committee. Again, I would like to extend our thanks to the chairman and ranking member of the HELP Committee for graciously agreeing to our request to include this language in H.R. 3343.

Mr. ENZI. It is a great pleasure to work with my distinguished colleagues on H.R. 3343, the Health Care Safety Net Act. The Committee on Health, Education, Labor and Pensions has a long and distinguished history of championing legislation improving our health care system. Reauthorization of the health center program, the National Health Service Corps, rural health care programs, and dental workforce programs are a handful of examples of the successful programs the HELP Committee governs. I have had the pleasure of working with Senators KENNEDY and HATCH on this bill, and I very much appreciate the work of Senators SMITH, BARRASSO, ROBERTS, and the other sponsors of S. 3367, which was the genesis of the rural health clinic provision included in this bill. I also sincerely appreciate the contributions of Senators BAUCUS and GRASSLEY, as the rural health provision is under the jurisdiction of the Finance Committee. I look forward to strengthening our relationship next year as our two great committees work together on health care reform, and I am pleased the passage of this bill puts us one step closer to a higher quality health care system.

Mr. GRASSLEY. I agree with my colleague, Chairman BAUCUS, and would

also like to extend my thanks to the chairman and ranking member of the HELP Committee, Senator KENNEDY and Senator ENZI, for working with us on this issue. In my 7 years as chairman and ranking member of the Finance Committee, I have worked to preserve the committee's jurisdiction over legislation amending the Social Security Act, as Senator BAUCUS is doing now. In this case, the CMS certification requirement for rural health clinic designations is governed by title XVIII of the Social Security Act, which, as the Chairman has noted, is within the exclusive jurisdiction of the Finance Committee. The Balanced Budget Act of 1997 required that rural health clinics be located in an underserved or shortage area that were designated or updated within the previous 3 years but the 3-year requirement has only been applied to new facilities seeking to be designated as rural health clinics. The Centers for Medicare and Medicaid Services, CMS, recently issued a rule proposing changes in the requirements for rural health clinics. One of the proposed changes would apply the 3-year designation requirement to all rural health clinics and decertify RHCs located in communities where the shortage area designation is more than 3 years old.

The Health Resources and Services Administration, HRSA, and most States update their shortage area designations every 4 years. We need to align the timeframes for HRSA and CMS shortage area designations so that CMS certifications of rural health clinic designations would be valid for a 4-year period, consistent with the 4-year period used for HRSA designations. Otherwise, many rural health clinics in Iowa and other States throughout the country could lose their RHC designation simply because their State is not able to comply with the new CMS 3-year timeframe for certification.

Under the CMS proposal, if an RHC loses its designation or the State has not renewed its shortage area designation within 3 years, the RHC must request an exception within 90 days or it will be decertified 180 days after the 3-year period ends. Unless the statutory 3-year CMS certification period is changed to 4 years, many RHCs could be subject to being decertified in the near future unless they are deemed ''essential.'' Rural health clinics should not be jeopardized with closure because a shortage area designation has not been updated in a timely fashion by the State or Federal Government.

CMS has estimated that approximately 500 of the 3,700 rural health clinics operating today no longer meet the existing location requirements for RHCs, either because they are not in an area designated by the U.S. Census Bureau as ''nonurban'' or they are not designated by HRSA as being located in an eligible shortage area. Others believe that this estimate is too low. The National Rural Health Association has estimated that the proposed changes to the location requirements could result in up to 45 percent of RHCs being ineligible to continue in the program unless they are granted an exception. If this estimate holds true for RHCs throughout the country, over 1,600 RHCs could be decertified. This would severely impact access to health care for those in rural and medically underserved areas where rural health clinics provide the only access to critical medical services.

We are most appreciative of the efforts of our colleagues, Senator KENNEDY and Senator ENZI, to amend H.R. 3343 to change the CMS certification period for shortage area designations from 3 to 4 years in order to align the CMS certification period for shortage area designations with HRSA's designation review period.

HEALTH INSURANCE

Mr. GRASSLEY. Mr. President, I am here today to talk about health insurance. A year ago, in the spirit of bipartisanship, I joined Senator WYDEN and Senator BENNETT in cosponsoring the Healthy Americans Act. The Wyden-Bennett bipartisan legislation offers elements that are consistent with a ''patient-driven'' approach to improving our health care system. A ''patient-driven'' approach means people can shop for their own health insurance in a competitive marketplace, which will allow them to choose the type of health care coverage that meets their needs. Many in the Democratic Party, including the Democratic Presidential candidate, want a Government-controlled system that is not ''patient-driven.'' This is a non-starter and is bad policy. And the majority of Americans do not want the Government making their health care decisions for them.

I continue to be interested in exploring ways to reform the health care system through the Tax Code. I am interested in examining whether Congress should offer Americans a choice between a tax credit and a deduction for health insurance. The Wyden-Bennett bill raises some tough questions that we need to explore as we look at health care reform. We need to determine the future role of Medicaid and SCHIP in our system over the long haul. We need to explore better ways to make the market work to hold down the rising costs of health care. And we need to find better ways to make health coverage more affordable and secure. This ''patient-driven'' approach—with insurance reforms and changes in the tax treatment of health insurance—should make health insurance more affordable for everyone. The goal should also be, if people are happy with their current health care coverage, they can keep it.

During my tenure in the Senate, I have sought to build bridges between Republicans and Democrats. I believe that there are times where Republicans and Democrats need to come together to produce results. Health care reform cannot be successful if it is not bipartisan. I commend Senators WYDEN and BENNETT for forging the only bipartisan effort in Congress to date.

As I did last year, I want to make clear that my cosponsorship of the Wyden-Bennett bill is not an endorsement of all that the bill proposes. Instead, I am cosponsoring this bill to add my voice to those who are calling for people to work across party lines to find innovative solutions that can work. While I support the ''patient-driven'' approaches in the bill, I have serious concerns about a number of the provisions of the Healthy Americans Act. For example, this bill would require all individuals to buy health insurance. I support accessibility to private insurance and differ with my colleagues on this point. Also, Senator WYDEN's approach envisions a bigger role for Government than I would prefer. In addition, I certainly am not endorsing the repeal of the non-interference clause in Medicare Part D. That is not going to be on the table for me.

I also need to address a concern about the Wyden-Bennett bill I have seen pop up lately. These accusations are particularly troubling because I don't think they are accurate. It is true that the Joint Committee on Taxation has estimated the gross cost of the bill to be about $1.4 trillion annually by the year 2014. It is also true that the Joint Committee on Taxation estimated that the bill is fully paid for so the net cost to the Federal Government is zero. I have also read a concern that the Wyden-Bennett bill does not do enough regarding mandated benefits. The Wyden-Bennett bill reduces the impact of the myriad State mandates so that there will only be a much more limited set of requirements of a health plan much more consistent with what is already provided to Federal employees today.

Finally, I want to refute one particular charge regarding coverage of abortion services. The Wyden bill does not mandate that every American buy a health insurance plan that covers abortion services. This Senator supports legislation that protects life, and one only needs to point to my record in this area for evidence of that fact. I would not support a bill that requires individuals to purchase health insurance that covers abortion, or legislation that encourages women to seek abortion. And, while I agree that Americans deserve similar health care options that Members of Congress enjoy, I don't agree that Washington should mandate coverage of procedures that purposely end human life. Should this bill move forward, I will work with my colleagues to make sure abortion coverage is not made mandatory.

So my cosponsorship is not an endorsement of all provisions of the bill. Instead, I have cosponsored the Healthy Americans Act to add my

voice to the bipartisan call for significant changes in our health care system. This is only one step in the process of the public discussion of ideas for improving our health care system. I also intend to continue working with Chairman BAUCUS and members of the Senate Finance Committee on his health care reform agenda.

We have serious problems, and we need to solve them. So it's time to get to work.

SUPPORT FOR VULNERABLE AND DISPLACED IRAQIS ACT

Mr. CASEY. Mr. President, I rise today to highlight a bill my distinguished colleague, Senator CARDIN of Maryland and I introduced last week. S. 3509 addresses the ongoing humanitarian crisis in Iraq and potential security breakdown resulting from the mass displacement of Iraqis inside Iraq and as refugees into neighboring countries.

If passed, this bill will help the United States address the needs of millions of Iraqis who have been forced to flee from their homes. The heart of the bill requires the Secretary of State to develop a comprehensive regional strategy to address this humanitarian crisis. Senator CARDIN and I are joined in this effort by our colleagues, Senators BINGAMAN and VOINOVICH, who have cosponsored the bill.

Unfortunately, we were not able to reach agreement to have this legislation placed on the Foreign Relations Committee business agenda this week. We may not have enough time left this year to bring this bill to the floor. I hope that is not the case—and if so, it is my hope that the State Department recognizes the need to formulate a strategy and take prompt action itself.

It has been 5 years since the fall of Baghdad, and although this administration refuses to acknowledge it, Iraq and her neighbors are in the midst of a humanitarian crisis that threatens to undermine the stability of the Middle East. Wherever one stands on the future of the U.S. combat presence in Iraq, we have a moral responsibility to those innocent Iraqis who have been driven from their homes and fear for their lives and their children's lives every day.

As I noted during my floor statement marking World Refugee Day this past June, Iraqis are now one of the largest displaced populations in the world. According to host countries hosting Iraqi refugees, up to 2 million Iraqis have fled their homes for neighboring country in order to avoid sectarian and other violence. According to the U.N. High Commissioner for Refugees, UNHCR, there are over 2.7 million internally displaced persons in Iraq.

Iraqi refugees are overwhelming the basic infrastructure of Iraq's neighbors, especially in Jordan, Syria, and Lebanon. This raises troubling concerns about the region's stability and shifting sectarian balances. No one in the region, and I must stress this, no one including host countries and refugees themselves expect Iraqi refugees to return anytime soon. This means we will be dealing with the exodus of displaced Iraqis for some time to come. Despite this administration's position that security conditions are improving in Iraq and life is normalizing, there are no signs of imminent return.

I saw firsthand the humanitarian and security implications of this crisis during my trip to the region last year. Beyond the obvious humanitarian and moral dimensions, this crisis has grave implications for our national security interests in the Middle East.

We often talk about our military surge in Iraq. What has been missing for far too long now has been our humanitarian surge to address basic needs—access to food, health care, shelter, drinking water, and education. This needs to be at the heart of any campaign to win ''hearts and minds.'' Strong U.S. leadership is critical in bringing the Iraqi Government, regional neighbors, and the international community to the table to discuss and implement concrete measures.

To date, Congress has not passed any comprehensive legislation addressing this humanitarian crisis. My bill, S. 3509, would prompt the next administration to act quickly and make the displacement of millions of Iraqis an urgent foreign policy priority. The heart of the bill requires the Secretary of State to develop a comprehensive regional strategy that addresses the mass displacement of Iraqis. The strategy would: address the serious challenges facing Iraqi refugees; address the responsibility of the Iraqi Government to help meet the urgent needs of its citizens in the region; include an assessment of how much assistance is needed to help meet these needs; include an assessment of what conditions are necessary for the voluntary, safe, sustainable return of displaced Iraqis; include a description of the steps the U.S. Government has taken and will take to engage the international community to implement the strategy; and include plans to assess the impact of the strategy.

S. 3509 also includes reporting requirements from the State Department and the Government Accountability Office so that Congress is informed on how the administration is moving forward on the Iraqi humanitarian crisis.

Mr. President, I believe this bill will help define a roadmap for the United States and the international community on how we are meeting our basic obligations towards helping vulnerable Iraqis displaced as a result of the 2003 war. It will once again promote responsible American leadership abroad.

I want to thank the following groups who have supported S. 3509 thus far:

America's Development Foundation; Campaign for Innocent Victims in conflict, CIVIC; CARE; Catholic Relief Services; CHF International; Church World Service, Immigration and Refugee Program; EPIC: Promoting a Free & Secure Iraq; Friends Committee on National Legislation; International Medical Corps; International Relief and Development; International Rescue Committee; Leadership Conference of Women Religious; Maryknoll Office for Global Concerns; Mercy Corps; NETWORK; Presbyterian Church, USA, Washington Office; Refugees International; Save the Children; U.S. Committee for Refugees and Immigrants; and U.S. Conference of Catholic Bishops.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

In response to your request for stories reflecting rising energy prices, I would offer the following: It is not unique to my family, but it affects everyone, everywhere, and as an elected official, I would advise you to keep it foremost in your mind when debating the need for renewable energy resources.

Our dependence on foreign oil has the effect of spilling our blood on foreign sands in wars that we sure should not be sticking our noses into. It is causing the rest of the world to see us as imperialists, rather than as the beacon of freedom, and it is edging our nation toward facism, as the wealthy have no qualms about sacrificing the poor to make sure the oil keeps flowing from these sources.

And, in the end, we the people lose. How can we call ourselves an independent nation if we are to rely on foreign energy? And how can we call ourselves a free people if we cannot afford basic necessities? We the people are seeing prices skyrocket, and our wages decline, despite what the annual reports say, as they do not account for the devaluation of the dollar.

WILLIAM.

P.S. Thank you for actually doing something about this mess.

Per your request, I am sending an e-mail in regard to my concern for the rising costs of fuel and the impact it is having upon me and my family.

As you know, Idaho is, to a great extent, a rural state. Most of our employment involves traveling to or from our job sites in automobiles. Since we aren't privileged enough to have a rapid transit system or bus

service, as in many urban city areas, we are forced to get to our employment by our own methods. I work at the Idaho National Laboratory. It is approximately 54 miles one way from my home. The nature of my job (foreman over maintenance craft personnel), requires that most of the time I use a personal auto to commute between my home and my job site. My auto gets approximately 30 miles per gallon, and it has a 17-gallon fuel tank. Each day's travel is approximately 108 miles divided by 30 mpg, giving an average of 3.6 gallons of fuel per day. At $4 per gallon, it costs $14.40 each day to drive to work. If we multiply this number by 9 (the number of work days in a two-week period), it costs me approximately $130 every two weeks for fuel, just to get to work! Multiply that by 26 and my yearly cost (just to go to work) is approximately $3,360. This does not count the fuel necessary for my wife to get to her place of employment, or the costs associated with the need to travel to buy groceries and other necessities. The average cost of our fuel has risen about $1.30 per gallon since last year at this time. My wages have not compensated for the increase in fuel costs, nor has it compensated for the additional costs associated with the purchase of groceries and other commodities, just to survive.

Of course, we have to cut way back just to make ends meet. This also means that our choices for recreation (or even a date with my wife) are getting very limited because we must use more and more money to pay for fuel, groceries, and commodities necessary for our very existence. Why is it that we can send billions of dollars, each year, to countries who hate us and do not even use the money for what it is intended, yet let our own people suffer? Where's the justice? Why cannot we do something to help our own people for a change, fight terrorism in this country (gangs), and open up more of the reserves in our own country so that we do not have to be dependent upon foreign terrorists who control (actually are destroying) our economy and indeed the worldwide economical situation?

I have two brothers who work in the oil business in Wyoming. Their story of how much reserves we have differs greatly from what our politicians are telling us. Who are we to believe? Are we being misled? Are we being manipulated by selfish interests who would rather pass a ''carbon tax'' bill (when science has proven that there is, indeed, no global warming crisis) creating more taxpayer dollars to line their own pockets? I am a bit frustrated, but I really think that there is no real justification for how fast the cost of fuel has increased this year.

One more thing I would like to know, and that is why are we at the mercy of minority organizations with a lot of money, organizations like the ''green'' people, the environmentalists, or other groups who are at least partially to blame for our energy crisis? We need to be using more of our domestic resources and get away from foreign dependence. We need to put a few curbs on the organizations that are responsible for chasing all of our industry out of our country. Those people have ensured that there are so many outrageous controls on manufacturers, that they cannot reasonably make and market most of the things we use in this country, at a fair and competitive price because the costs of all of the regulations force these manufacturers to leave the country and build their products where the regulations are not prohibitive. Our country, unfortunately, can only rely upon the amount of paperwork done in a day to be able to claim to have done something useful. Even our complicated sensitive technologies are coming from overseas.

The best example I can use for how far downhill we have gone is to compare what we used to be able to do on the INL to what we can do today. We used to be able to get work done. A lot of work. We were productive. We built reactors, we maintained them and the various other systems necessary to make the rest of our facilities function well. We were not overwhelmed by piles of paperwork. Yes, there was paperwork, but it was nothing like we do today. Today, in our ''world class'' society, we have DOE regulating us out of work. We have a new company that has piled paperwork upon us to the point that not just the administrators are doing piles of it, but every man and woman from administrators to laborers, must process piles of paper each day, to do 'work.' Of course, since the advent of the new contract between DOE and BEA, we have consolidated the site and now we do about ⅔ less that ever before. More mountainous is the paperwork. More signatures are required before work can begin. More signatures are required to 'complete' work. Plus, now we have found that the former Argonne personnel were not up to par with the rest of the site (we were running Argonne for 50 years without knowing what we were doing, nor how to do business, and we never killed anyone). Our ignorance has resulted in additional training for each and every person working at the facility. In fact, there is so much training, computer based and otherwise, little time to do work. Besides, we aren't focused upon how much work we can do 'safely,' instead, we are focused upon how safe we can be, doing little work in the name of 'safety.'

Yes, I am frustrated. I guess I am lucky that I am not in the Senate or Congress, because knowing what I know about how things are done here, and how much is wasted, I would seriously be working to close this site down. Tax payer money is being spent (actually wasted), and the tax payer only knows what the media tells them is being done with their money. This is not a responsible national lab any more.

Anyway, I have unloaded upon you again. Sorry for the apparent frustration, but I can see the mess because I am behind the curtain that hides it from the rest of the country. Thanks for listening.

BRENT, *Idaho Falls.*

We heat our home with propane; it is a 2,000 gallon tank. With the cost of propane, it would run us around $3,000 to fill it. We did not do that we did it at $250 at a time. We even ran out one time. Wood is costing a lot as well, at our age and work we have to buy it cut and delivered and that as well is expensive, yet without the wood stove our home would have cost to heat this year around $8,000. Personally I believe in wind power and solar technology. Canada is experimenting with a trailer right now that is brought in that has wind power and wind solar on it. It is running farms capable of running the whole house and everything as well. So, if they are doing it right now, why are we not doing it? They run about $40,000 right now. They are in the test run just to see how long and evident it is. I want one. If they are ready for the market place next year, I plan on getting one. I feel in the deepest part of my soul that the greed of man just might be too powerful. I am so pleased that you are doing your best to protect Mother Earth and the souls that live on her. Those whom are in denial and only live in the power of money will indeed pay at some point in there souls. So I hope this supports what needs to happen. I do, however, only believe in wind and sun, I feel that we cannot ask other countries to not use certain toxic and dangerous chemicals to destroy this planet and not walk the talk. Thank You for all your hard work.

JEANINE.

I agree with the outrageous energy costs. Gasoline and fuel prices are totally unheard of. The constant rise in fuel costs has not only hindered the life style, we here in Idaho enjoy, outdoor activities, fishing and camping, but the farmers are also getting hammered. What in tarnation is happening? The rich just keep getting richer. My hat is off to the successful, prominent business people, but where do the working class fit in? Seems like the taxes keep going up right along with the cost of living, health care and so on.

I truly find it hard to believe that with all of the oil wells and refineries we have in the United States that we should not be in better shape. Where are these reserves being sent to? I see where the Republican Committee is asking for more drilling to take place in Alaska's wildlife areas. What's up with that? What happened to the presently existing Alaskan Pipeline? Did Wyoming, Texas and the sort all dry up?

Are we truly a ''free nation'' or are we relying on the foreign imports and markets to help us attain this freedom? If there is any.

I think the addressing of the country's issues have been a long time in coming, but is it too late? What do our children have to look forward to?

NATE.

I am a stay-at-home mom with four girls. My husband is college-educated and makes a good living for our family. But, with rising energy and gas prices, we are definitely feeling the pinch in our monthly budget (not to mention rising food prices as well). Ron works twelve miles from home. We do not have additional drivers in our household yet. The driving I do consists of basketball games, dance lessons, and church activities and household errands. We spend over $280/month on gas. To conserve, Ron has begun carpooling at least once a week to work. That is not always easy, but the three drivers are trying to save some money. It is definitely something I think about everyday as I drive to and from town. I try to do all the errands I can at once. We have canceled a planned vacation to California this year to save the money. We hope to be able to do it next year.

I feel we live in a great country. There is more technology than ever before. I hope my country can help to make alternative fuel sources a reality. I know solar cars exist. I have seen one discussed on KTVB news recently. We need this type of research to fuel America's economy. The technology is out there. As an average Idahoan, I hope congress will help drive this process. The greatest country has great means to make great things happen for its people.

CINDY, *Boise.*

I find it pitiful that we even have to ''convince'' our law makers that there is a crisis. Maybe they should learn to live the way the rest of the country does. Paying $4+ for a gallon of gas, $4 for a gallon of milk, $4 for a loaf of bread and just about the same for a dozen eggs. Already that trip to the store in my car costs more then I make in an hour of work. Come on, let us wake up and smell the coffee . . . oh, that is up to (cheap coffee) $8 a pound. We need to start using our own resources and stop sending billions to our enemies. We are a proud nation, so let us start acting like one.

MARTY.

We are retired and on Social Security. If we have to buy more than one tank of gas a month, it is almost impossible to pay our

bills. We have an all electric home and electricity has also went way up in price. We watch propane and natural gas to see if it would be better for us to change, but they have also skyrocketed and just the cost of changing is unaffordable. We also live in fear of losing our Social Security and Medicare because they want to privatize it.

I think what you say you are trying to do now is the right thing but why did not you do this sooner before the tax cut for the rich oil companies was put in force and why do not you speak up and stop these tax cuts from becoming permanent. This is part of what is putting the squeeze on the American people. Thank you very much for giving me the chance to express my opinion.

LOIS.

I concur with policies that will take advantage of wind and solar power technologies, and renewable/alternative fuels. I wish you would reconsider the use of nuclear reactors as I am concerned for our safety and the waste disposable. Without a doubt, we (USA) need to take action ASAP please pass legislation so that we can start using our oil reserves but also start investing in new technologies so that some day we will not need oil all together. I have confidence in our abilities to get this done but it has to have the support of our government and you are in the position to help make a difference to help make the USA a better place to live. Thank you for your time.

UNSIGNED.

I recently traded my 4-wheel-drive Toyota pickup with 35,000 miles on it for a Toyota Camry that gets ten more miles per gallon. I was looking for a 2008 Camry LE 4-cylinder. There were none in stock. All sold out! The 2009 models are in now. The dealership Tom Scott Motors told me all the 4-cylinders were sold by the time gas prices hit $3.50 per gallon. And the V6s were not selling. Two dealerships offered me $1,000 to $3,000 less than my pickup was worth as per Kelly Blue book citing the 4-wheel-drive gas guzzler option was the problem. They said I was lucky I was trading a Toyota and not a full-sized truck. They are not even taking them in trade now and, if they do, the offer is $8,000 to $9,000 back of Kelly Blue Book. I got $13,750 for my trade. In March when gas was $3.00. It was worth $16,775 cash.

You know, it is the politicians that created this theft of Idaho assets in this regard. I am not convinced the politicians will resolve it any time soon. They should have started drilling and building refineries in the 1990s. But good luck with your efforts.

PERRY, *Meridian*.

TRIBUTE TO LINDA NORRIS

Mr. CRAPO. Mr. President, late this fall, my longest-serving staff member, Linda Norris, will be retiring from my staff. Linda has provided 18 years of professional, tireless and dedicated service to the people of Idaho, first as a member of my first House campaign staff in the early 1990s, then as my regional director in Twin Falls, ID, and my State director of constituent services on my Senate staff while retaining her position as Twin Falls regional director. She spent the last few years here in my Washington, DC, office, finishing her time on my staff in her function as State director of constituent services. Linda has consistently worked long hours over the years, and helped me immeasurably by her excellence in the field of constituent and community services and military and veteran relations.

When I met Linda in 1991, I was beginning my bid for a seat in the U.S. House of Representatives, representing the Second Congressional District of Idaho. She asked me very direct questions about my stand on issues, my goals were I to be elected, and my priorities. She vetted me. Once she was satisfied that I met her standards, she offered to take over regional operations for my campaign in south central Idaho in the Magic Valley and Sun Valley area. That began what was to be a highly successful working relationship of close to two decades, and a close personal friendship of a lifetime for me, my wife and family.

Linda has worked diligently on every task that she took on, either given to her or ideas she pursued independently. She has been involved in land issues, helping as we negotiated sensitive access and conservation policies with the tribes, the Air Force, the Idaho Department of Lands, private entities and the counties in the 1990s. She was my office liaison for the Harriman hiking trail in Sun Valley that finally was completed just a few years ago. A nurse by training, Linda is the reason why I became so closely involved in domestic violence issues. She was the first to crystallize the issue by arranging for me to visit a safe house where I met two children physically and emotionally devastated by brutality in their home. At that moment, I pledged to do all I could to work toward eliminating this terrible violence that occurs in too many homes across the United States and beyond.

Linda has a special place in her heart for the military and for veterans. As an Army spouse, she brought a special sense of empathy to her work, together with an extraordinarily perceptive understanding of protocol that goes a long way in ensuring that a Member of Congress's office maintains a positive relationship with Department of Defense officials. The importance of this cannot be understated when it comes to helping Idaho military members and veterans when they have questions or concerns about military and veterans' affairs issues. Linda leaves my office held in very high esteem by both Idaho and national military and veterans affairs officials. Linda also has been solely responsible for the past 15 years for the military academy nomination process in my office. The other members of the Idaho delegation have even advised new staff members to talk to her about the proper procedures and protocol for this complicated and very important process. And, close to 10 years ago, Linda suggested that I create the Spirit of Idaho and Spirit of Freedom awards. The Spirit of Idaho award recognizes extraordinary efforts of Idahoans for community service performed outside of their work life. The Spirit of Freedom Award is one that I present annually to veterans and volunteers for their service to our country and to veterans.

Linda has worked behind the scenes, helping countless constituents when they encounter difficulties with federal agency processes and procedures. She has done everything from facilitate a faster passport application, to helping a number of Idahoans receive Purple Hearts and other military awards, and even helped family members obtain them for relatives long deceased. Linda has celebrated with people who have had long-term problems resolved and cried with mothers who have gotten frightening, desperate calls from a son or daughter deployed overseas and going through bouts of depression or worse. Through it all, she has maintained her composure, professionalism and judicious compassion. Linda also has a reputation for being a patient teacher and mentor. She has provided new staff members with effective training and advice

In all the years Linda has worked for me, she has put Idahoans first and strictly adhered to the ethical and moral requirements of congressional staff work. I could ask for no better service nor could Idahoans. Linda Norris will be missed by staff and constituents alike, and I will miss her professional counsel and hard work. Fortunately, my wife and I have years of her friendship to look forward to, and she knows that Susan and I wish her the best as she begins a new and different journey in her life.

ADOPTION AND CHILD WELFARE POLICY

Mr. ROCKEFELLER. Mr. President, today I would like to talk about the history of adoption and child welfare policy and the importance of the Fostering Connections to Success and Increasing Adoptions Act of 2008 which passed in wrap-up on Monday, September 22, 2008.

First, I want to commend Chairman BAUCUS and Senator GRASSLEY and their professional staffs who have done incredible work to forge a consensus and develop this bold package. Subcommittee Chairman MCDERMOTT and Congressman WELLER and their staffs showed the same leadership and commitment in the House. It was a privilege to be part of the process. This is a strong package with extraordinary broad-based support from the adoption community, child advocates, and even State groups. That consensus was essential to move the legislation and act on behalf of vulnerable children in foster care.

This strong bipartisan, bicameral package will help promote adoption, support guardianship, and improve the outcomes in foster care. The package and the process build on the legacy of the 1997 Adoption and Safe Families Act. In 1997, a bipartisan group came together and developed legislation that started the adoption incentive program, an initiative that spurred genuine change in the child welfare system

including doubling the number of adoptions from foster care over the decade. This means that 443,000 children from foster care have a permanent home and a family, and 3,600 are West Virginia children. A family and a permanent home makes all the difference for a child. The 1997 act also changed the reasonable efforts provisions to restore balance and help focus on the best interest of a child, and providing a safe, stable and permanent home.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 is a historic initiative to further promote adoption and permanency for children. It will eliminate, over time, the outdated connection between adoption assistance eligibility with the broken Aid To Families with Dependent Children, AFDC, a program that was terminated in 1996. The new Adoption Assistance Program is phased in over 10 years, starting with the oldest children or children who have been in care for over 5 years. The package also updates the adoption incentive program.

The bill gives States the option to invest in relative guardianship, a program that was tested and found very successful during the child welfare waivers. Children in relative placement tend to move less and get better reports from the teachers. The package also makes a special investment to promote the promising kinship navigator program to provide support and referrals to the millions of grandparents and relatives raising their kin. It provides new tools and direction to locate relatives as possible care providers. This is an important option that will lead to more permanency for children.

The bill also requires States to do more on educational stability and directs that each child has a coordinated health plan that includes dental and mental health care. This is fundamental for each child. To help staff do a better job serving children, the bill also invests in training programs.

The legislation will also invest in the more than 20,000 young people who age out of foster care, each year. First, it requires that the youth have full support in developing a transition plan 90 days before leaving care. It is not right or appropriate for a foster teen to leave care and move into a homeless shelter. The legislation also encourages States to extend foster care beyond the age of 18 if the young person is engaged in education, job training, employment, or has a disability that prevents such engagement. Young people need and deserve support, and we know that it makes a positive difference.

Finally, for the first time, thanks to Chairman BAUCUS' leadership, the Tribes and Tribal organization will have the option of direct access to Federal foster care to serve Native American children directly.

Many of the provisions in this package, particularly improvements in adoption assistance, have been among my priorities for years. It is exciting to work with colleagues on a success, and it will be even more rewarding to work on its implementation for children and families in West Virginia and nationwide.

DEPARTMENT OF DEFENSE MEDIA CONSOLIDATION

Ms. MIKULSKI. Mr. President, I wish today to recognize the Department of Defense for its successful, BRAC-directed consolidation of the Army, Navy, and Air Force media activities into the new Defense Media Activity on October 1, 2008. The Department of Defense has greatly enhanced the consolidation by including the Marine Corps component and the American Forces Information Service in the new Defense Media Activity.

The consolidation will improve the effectiveness and efficiency with which the Department of Defense media operations provides critical news and information to our Armed Forces around the world. In the summer of 2011, the Defense Media Activity will locate its headquarters to a state-of-the-art facility at Fort Meade, MD.

The Defense Media Activity is staffed by about 1,700 dedicated military and civilian employees who work in 15 countries. I wish the Defense Media Activity continued success in their support of the men and women of our military services and their families.

TRIBUTE TO JIM MILLER

Mr. CONRAD. Mr. President, I come to the floor today to honor my former budget analyst for agriculture, Jim Miller, for his exemplary service. For the last 4 years, Jim has served me as my lead agriculture adviser. His efforts have helped produce great legislative successes for our Nation's farmers and ranchers.

Jim's knowledge of agriculture is extraordinary. His encyclopedic familiarity with Federal agriculture policy allowed him to know the answer to any question I would ask about agriculture. Throughout his service, he garnered the respect and admiration of his colleagues as well as other Senators for his intelligence and his good nature. His wise counsel will be missed.

Jim came to my office in August 2004 after working for the National Farmers Union. Even though Jim had 20 years of agriculture policy expertise and had farmed in his native Washington State for over 20 years before coming to Washington, he had never worked on Capitol Hill.

But he hit the ground running. Shortly after Jim joined my staff, he helped me pass an agriculture disaster assistance package for North Dakota farmers and ranchers in 2004. He also worked for 3 long years to secure additional disaster assistance for North Dakota farmers stricken with flooding in 2005 and severe drought in 2006.

I will always remember Jim for his work during the 2008 farm bill. Jim was my lead negotiator and captain of my farm bill team. Without his leadership and dedication, this most recent farm bill would not be as strong as it is. He gave this effort thousands upon thousands of hours of his time, working with people on both sides of the aisle and in both Houses of Congress to get a fantastic end result. He was responsible for helping me deliver the top priorities for North Dakota producers: increased farm program support levels and a standing disaster program.

I thank him for helping this Congress produce what I think is the best farm bill we have ever had. And it isn't just me that thinks this—it is reflected in the recordbreaking votes we had in the Senate and the large margin of victory we had on overriding the President's two vetoes.

Since Jim left my office, he has rejoined the National Farmers Union. I will forever be grateful for his tireless efforts, his creative thinking, his coalition building, and friendship. I wish him all the best in his new endeavor.

ADDITIONAL STATEMENTS

RECOGNIZING ROY SILVERSTEIN, M.D

• Mr. BROWN. Mr. President, I would like to take a few moments to recognize the achievements of Dr. Roy Silverstein, an Ohioan who has dedicated his professional life to biomedical research and medicine.

Dr. Silverstein is currently chairman of the Department of Cell Biology and vice chair for translational research at the Lerner Research Institute, as well as professor of molecular medicine at the Cleveland Clinic Lerner College of Medicine at Case Western Reserve University.

Having chaired multiple grant review panels and published over 100 articles in various publications and scientific journals, Dr. Silverstein has accomplished an extraordinary number of professional milestones and achievements.

As committee chair for the American Society of Hematology, ASH, for the past 4 years, Dr. Silverstein has led the society's efforts to educate Members of Congress about hematology and the importance of Federal research funding. In this capacity, Dr. Silverstein has visited with me and my staff to educate us about the critical issues facing hematologists.

The skilled advocacy and research of Dr. Silverstein remind many of us in Congress of how crucial it is to keep NIH funding strong. His work demonstrates that NIH funding truly is a vehicle for enhancing the health and wellbeing of Americans. In addition to continuing his own research in blood clotting and bleeding disorders, Dr. Silverstein has also shown great commitment to educating our next generation of physicians and researchers. Dr. Silverstein is a superb advocate for his

profession, and I am grateful for his lifetime contribution to treating blood diseases and advocating for biomedical research.●

RECOGNIZING HUSSON UNIVERSITY

● Ms. COLLINS. Mr. President, I recognize a landmark event at one of our Nation's great success stories in higher education. On October 11, 2008, Husson College in my home State of Maine will become Husson University.

This designation is but the latest chapter in a history that is truly inspiring. It began more than a century ago, in 1898, when Chesley Husson founded the Shaw School of Business on the second floor of a building in downtown Bangor, offering instruction in such cutting-edge technologies of the day as typing and telegraphy. From the very start, Husson has remained a private school with an entrepreneurial approach and a commitment to educating young people of limited means.

Since then, Husson has grown tremendously, both in the size of its beautiful campus and in the range of the courses and degrees offered. It has grown because, through all those years, Husson has remained true to its founding principles of responding to needs, recognizing opportunities, and delivering real value.

Today, Husson offers a university-caliber range of both undergraduate and graduate degrees, including graduate professional degrees in business, health and education. It is home to the New England School of Communications, which offers audio, video, Web and computer programs, marketing, theater, and both print and broadcast journalism, and to the Bangor Theological Seminary, the only accredited graduate school of religion in Northern New England. In addition to its main campus in Bangor, Husson has developed a statewide reach with education centers in South Portland and Presque Isle, the Boat School in Eastport, and Unobskey College in Calais.

The Husson story is, however, about more than growth in enrollment, degree offerings, and campus locations. It also is a story of fostering personal growth, of preparing graduates for successful professional careers, and of promoting in each student the development of individual self-worth.

Before coming to the Senate, I had the honor of serving as the founding director of the Dyke Center for Family Business. I have never known a school, a faculty, or a student body more focused on preparing for a professional career than at Husson. Husson truly is remarkable in its dedication to this aspiration and its clear sense of purpose.

I saw in Husson students an emerging sense of personal pride, a sense of self-worth grounded in knowledge and confidence. This wonderful combination of hands-on learning, personal attention from the faculty, friendships that develop with other students, and self-discovery is the Husson spirit. As I travel throughout Maine and across the Nation I find Husson alumni from every walk of life who possess that invaluable sense of self-worth.

Husson is more than a pretty campus in a small city that shines, as Thoreau put it, ''like a star on the edge of night.'' Husson is a network. It is a network that includes teachers, architects, bankers, nurses and therapists, counselors, criminal justice administrators, hospital CEOs and doctors, corporate executives and entrepreneurs, heads of architectural firms, senior law partners and entrepreneurs. It is a network that reaches across the State of Maine and around the world.

If there is one thing today's college students do not need to be told, it is that the world is changing every day. A big part of the Husson spirit is anticipating change. Among Husson alumni there are business graduates who have become architects and attorneys, nurses who are hospital CEOs, and teachers who have become ministers. A Husson degree is more than proof that a student can do one thing well. By developing the skills to perfect one profession, Husson graduates learn the discipline, leadership skills, and problem-solving capabilities to change with the times. The Husson spirit is not just about being part of change, but of leading it.

The change I recognize today is evidence of that spirit. I congratulate Husson College as it becomes Husson University. The Husson story is remarkable, but I know that the most remarkable chapters have yet to be written.●

CHARLES CITY COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today, to salute the dedicated teachers, administrators, and school board members in the Charles City Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Charles City Community School District received several fire safety grants totaling $377,303. The 2001, 2003 and 2005 grants were used to upgrade fire safety systems at the high school, the middle school and Washington Elementary. The 2002 grant was used to upgrade the electrical system at the high school. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Charles City Community School District. In particular, I would like to recognize the leadership of the board of education—Mark Miller, Ralph Smith, Matt Spading, Bill Fenholt and Randy Heitz, and former board members, Sam Offerman, Dean Tjaden, Susan Ayers, Patti Emmel, Scott Dight, Virginia Ruzicka and DeLaine Freeseman. I would also like to recognize superintendent Andy Pattee, former superintendents David Bradley and Marty Lucas, buildings and grounds director Steve Otto and business manager Terri O'Brien.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Charles City Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

LOGAN-MAGNOLIA COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Logan-Magnolia Community School District and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Logan-Magnolia Community School District received a 2002 Harkin grant totaling $1 million which it used to help build additional classrooms. These additional classrooms allowed the district to provide preschool, special education, and afterschool programs. This school is a modern, state-of-the-art facility that befits the educational ambitions and excellence of this school district. Indeed, it is the kind of school facility that every child in America deserves.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Logan-Magnolia Community School District. In particular, I would like to recognize the leadership of the board of education—president Dennis Alvis, vice-president Kevin Mann, Kelly Gochenour, Mike Branstetter and Dan Cohrs, and former members, president Randy Koenig, Kris Earlywine, and Jim Noneman. I would also like to recognize superintendent James Hammrich, former superintendent Ed Gambs, principal Jim Makey, principal Katy Sojka, board secretary and business manager Karen Jacobsen, and secretaries Mary Johnsen, Cheryl Greenwood, and Margaret Straight.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Logan-Magnolia Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them and wish them a very successful new school year.●

NEVADA COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes, today, to salute the dedicated teachers, administrators, and school board members in the Nevada Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Nevada Community School District received several Harkin fire safety grants totaling $ 154,000 which it used to install fire alarm systems at the elementary, middle and high schools as well as emergency lighting at the high school. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute superintendent James Walker, the entire staff, administration, and governance in the Nevada Community School District. In particular, I would like to recognize the leadership of the board of education—president Curt Hoff, Marcia Engler, David Laird, Marty Chitty and Mike Bates, as well as former members president Carol Holstine, Dan Morrical, Renee Larsen, Laura Lillard, Bill Van Sickle, Jim Niblock and Marty Mortvedt. Building and grounds director Richard ''Scottie'' Scott, business manager Brian Schaeffer, and former superintendent Harold Hulleman were all instrumental in the application and implementation of the grant.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Nevada Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

OTTUMWA COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Ottumwa Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Ottumwa Community School District received several Harkin grants totaling $3,129,313 which it used to help modernize and make safety improvements throughout the district. Harkin

construction grants totaling $2 million have helped with renovations at several schools in the district including Ottumwa High School, Evans Middle School and Douma and James Elementary Schools. These projects have included new classrooms, new roofs, and new HVAC systems. These schools are the modern, state-of-the-art facilities that befit the educational ambitions and excellence of this school district. Indeed, they are the kind of schools that every child in America deserves.

The district also received eight fire safety grants totaling $1,129,313 to make improvements at buildings throughout the district including Ottumwa High School, the alternative high school, Evans Middle School, Wildwood, Wilson, Agassiz, Horace Mann, James and Pickwick Elementary Schools. The improvements included emergency and exit lighting, new sprinkler systems, upgraded fire alarm systems, electrical work and other safety repairs. The Federal grants have made it possible for the district to provide quality and safe schools for their students.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Ottumwa Community School District. In particular, I would like to recognize the leadership of the board of education—Pat Curran, Cindy Kurtz-Hopkins, Carol Mitchell, Payson Moreland, Ron Oswalt, Doug Mathias and Jeff Strunk and former board members Cathy Angle, Ken Crosser, Bob Ketcham, Don Krieger, Andrea McDowell, Michael Neary, Steve Menke, Jerri Stroda, Bob Warren and Mark Zeller. I would also like to recognize superintendent Jon Sheldahl; former superintendents Joe Scalzo and Tom Rubel; business managers Dick Springsteen and John Donner; directors of operations Lowell Smith, Steve Propp, Darrell Reams and Danny Renfrew; and community programs director Kim Hellige.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultra-modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Ottumwa Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

WESTERN DUBUQUE COMMUNITY EDUCATION

● Mr. HARKIN. Mr. President, in Iowa and across the United States, a new school year has begun. As you know, Iowa public schools have an excellent reputation nationwide, and Iowa students' test scores are among the highest in the Nation.

I would like to take just a few minutes today to salute the dedicated teachers, administrators, and school board members in the Western Dubuque Community School District, and to report on their participation in a unique Federal partnership to repair and modernize school facilities.

This fall marks the 10th year of the Iowa Demonstration Construction Grant Program. That is its formal name, but it is better known among educators in Iowa as the program of Harkin grants for Iowa public schools. Since 1998, I have been fortunate to secure a total of $121 million for the State government in Iowa, which selects worthy school districts to receive these grants for a range of renovation and repair efforts—everything from updating fire safety systems to building new schools or renovating existing facilities. In many cases, this Federal funding is used to leverage public and/or private local funding, so it often has a tremendous multiplier effect in a local school district.

The Western Dubuque Community School District received two Harkin grants totaling $1.5 million which it used to help with several projects in the district. A 2001 construction grant for $500,000 was used to help build a new school in Epworth, an addition to the Cascade school to provide classrooms for preschool and kindergarten programs and for additions for career education to the district's two high schools. The district received a $1 million grant in 2002 to help build pre-kindergarten classrooms in Farley and Peosta. These schools are the modern, state-of-the-art facilities that befit the educational ambitions and excellence of this school district. Indeed, they are the kind of school facilities that every child in America deserves.

Excellent schools do not just pop up like mushrooms after a rain. They are the product of vision, leadership, persistence, and a tremendous amount of collaboration among local officials and concerned citizens. I salute the entire staff, administration, and governance in the Western Dubuque Community School District. In particular, I'd like to recognize the leadership of the current board of education—Robert McCabe, Jeanne Coppola, Barb Weber, Mark Knuth, Gary McAndrew and former board members June Brandenburg, Tom Gassman, Dr. Tom Miner, John Howard, Nancy Ludwig and John Perrenoud. I would also like to recognize superintendent Jeff Corkery, former superintendents Harold Knutsen, Bev Goerdt and Wayne Drexler, director of buildings and grounds Bob Hingtgen, business manager Dave Wegeman and the members of the Kids First Committee, Cascade Area Resource for Education—CARE—and Bobcat Capital Support Foundation.

As we mark the 10th anniversary of the Harkin school grant program in Iowa, I am obliged to point out that many thousands of school buildings and facilities across the United States are in dire need of renovation or replacement. In my State of Iowa alone, according to a recent study, some 79 percent of public schools need to be upgraded or repaired. The harsh reality is that the average age of school buildings in the United States is nearly 50 years.

Too often, our children visit ultra modern shopping malls and gleaming sports arenas on weekends, but during the week go to school in rundown or antiquated facilities. This sends exactly the wrong message to our young people about our priorities. We have to do better.

That is why I am deeply grateful to the professionals and parents in the Western Dubuque Community School District. There is no question that a quality public education for every child is a top priority in that community. I salute them, and wish them a very successful new school year.●

TRIBUTE TO YWCA OF NORTHWEST GEORGIA

● Mr. ISAKSON. Mr. President, on October 23, 2008, the YWCA of Northwest Georgia will hold a vigil on Marietta Square in my hometown to commemorate Domestic Violence Awareness Month. I wish to express my gratitude for the work of the YWCA of Northwest Georgia and its executive director Holly Comer as they bring awareness to this important issue and its impact on our community.

The YWCA of Northwest Georgia opened the doors to the first domestic violence shelter in Cobb County in 1978 in an effort to end domestic violence in our State, our communities, and our homes. A home should be a place of stability, comfort, and love. Domestic violence shatters this important foundation. The terrible tragedies that result from domestic violence destroy lives and insult the dignity of women, men, and children. I believe I represent all Georgians when I say thank you to the YWCA of Northwest Georgia for its hard work to combat domestic violence and help those who have been victimized.

I am grateful for the social service providers, advocates, counselors, and many others who provide care for the victims. I am also grateful to the law

enforcement personnel and others who work to bring offenders to justice. As we recognize Domestic Violence Awareness Month, we are reminded of the important service these individuals provide.

Domestic violence has no place in our society, and I am strongly committed to addressing domestic violence and helping those who have been victimized. By working together with the YWCA of Northwest Georgia and its dedicated staff, we can build a Georgia where every home honors the value and dignity of its loved ones.●

100TH ANNIVERSARY OF GEORGIAN COURT UNIVERSITY

● Mr. LAUTENBERG. Mr. President, today I congratulate Georgian Court University, GCU, on its 100th anniversary. For the past century, GCU has been a leader in higher education, encouraging intellectual inquiry, ethical professionalism, and community involvement. I am proud to have this institution in New Jersey, and it is an honor to pay tribute to its achievements.

Georgian Court University was founded by the Sisters of Mercy in 1908 as a women's college, and it remains dedicated to the success of women today. The Women's College at GCU provides an environment conducive to academic achievement and offers a liberal arts education tailored to women's learning styles. In particular, GCU's Women in Leadership Development Program is one of the most powerful programs for young women today. By participating on university committees, making presentations, lobbying legislators, and networking with mentors, students develop the skills and tools needed by today's successful women leaders.

In the 1970s, Georgian Court University expanded its programs and opened its doors to men. Over the decades, GCU has added buildings and faculty to meet the growing student population, which stands at more than 3,000 today. In addition to the original GCU estate, which has been preserved and is on the National Register of Historic Places, the GCU landscape includes a new wellness center, residence hall, chapel, and science wing that were all added in the last several years.

With 29 undergraduate and eight graduate degree offerings, GCU continues to develop new academic programs. Their new nursing program, established just this year, will help stem nursing shortages in New Jersey. Their accelerated and executive MBA program allows executives to gain the information they need to advance their careers, and as one of only 50 NASA Educational Resource Centers, GCU ensures that teachers have the most up-to-date scientific information for their classrooms.

Finally, I would like to pay tribute to the service of Georgian Court University's faculty and students. Whether sending teams of students and staff to install water systems in poverty-stricken areas of Honduras or helping local homeless populations in New Jersey, GCU is committed to making the world a better place.

Mr. President, the students, alumni, and staff of Georgian Court University have much to be proud of as they celebrate 100 years of academia. I applaud GCU for its many years of service, and I wish the university continued success in the years ahead.●

TRIBUTE TO MARY MARK

● Mr. SMITH. Mr. President, former Oregon Governor Tom McCall once said, ''Heroes are not statues framed against a red sky. They are people who say, 'This is my community and it is my responsibility to make it better'.''

Today I pay tribute to a remarkable lady who truly earned the title of ''hero,'' because few individuals have done more in the past several decades to make the community of Portland, OR, a better place than Mary Mark. Mary passed away recently, and last week I joined with over 600 other Oregonians in attending a tribute service that honored Mary's life and legacy.

I first met Mary some 13 years ago when I was just beginning my campaign for the Senate. I had heard from many friends of the sterling reputation of Mary and her husband Pete and their status as two of Oregon's most generous philanthropists, but since I was from east of the mountains, I had not had the opportunity to meet them. And, unfortunately, the purpose of our meeting was for me to do something I hate to do, but which is a necessary evil for running for office—and that's to ask people for money.

It didn't take me but a few minutes into the meeting to reach a few conclusions—conclusions that have been reinforced time and time again over the years. First, Mary and Pete were two of the warmest and most gracious people I had ever met. There is a tradition here on the floor of the U.S. Senate where members refer to each other as ''gentleman'' or ''gentlelady.'' We yield to the ''gentleman from Iowa,'' or we agree with the remarks of the ''gentlelady from Maine.'' There are some who believe the terms are quaint and old-fashioned. I do not. I don't think that manners and kindness and courtesy ever go out of fashion. And I can't think of better words to describe Pete and Mary as a ''gentleman'' and a ''gentlelady.''

The second conclusion I reached is that Mary and Pete were two of the keenest observers of the political scene that I had ever met. I always looked forward to our meetings, because I knew that Mary was going to ask me some tough questions, and I knew she would share with me her very perceptive opinions. To be frank, in our business it is easy to find individuals who will tell me what they think I want to hear. Mary Mark always told me what I needed to hear.

It was also easy to see that as much as Mary loved her country and her community, the true great love of her life was her husband, and their wonderful children and grandchildren. Mary understood instinctively that our success as a society depends not on what happens in the conference tables of Washington, DC, but on what happens at kitchen tables in every community in Oregon. And when Sharon and I experienced a tragedy in our family, Mary and Pete reached out to us with kindness and compassion.

Mr. President, the Greek poet Sophocles once wrote, ''One must wait until the evening to see how splendid the day has been.'' For her family, for the community of Portland, and for Mary's countless friends and admirers, the evening of Mary's life came much too soon. It is my hope, however, that we can find solace in the fact that in the evening of her time on earth, Mary Mark could look back at a life filled with family, a life filled with generosity, a life filled with service to others, a life filled with making a positive difference, and say that the day had indeed been splendid.

May God bless Mary Mark, and may we all carry on her legacy by loving our community and by loving our family.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:33 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1760. An act to amend the Public Health Service Act with respect to the Healthy Start Initiative.

S. 3241. An act to designate the facility of the United States Postal Service located at 1717 Orange Avenue in Fort Pierce, Florida, as the ''CeeCee Ross Lyles Post Office Building''.

H.R. 923. An act to provide for the investigation of certain unsolved civil rights crimes, and for other purposes.

H.R. 1199. An act to extend the grant program for drug-endangered children.

H.R. 5834. An act to amend the North Korean Human Rights Act of 2004 to promote respect for the fundamental human rights of the people of North Korea, and for other purposes.

H.R. 6984. An act to amend title 49, United States Code, to extend authorizations for the airport improvement program, to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes.

At 12:25 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H. R. 2638) making appropriations for the Department of Homeland Security for the fiscal year ending September 20, 2008, and for other purposes, with an

amendment, in which it requests the concurrence of the Senate.

At 2:30 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2095) to amend title 49, United States Code, to prevent railroad fatalities, injuries and hazardous materials releases, to authorize the Federal Railroad Safety Administration, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Zapata, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2583. An act to amend title VII of the Public Health Service Act to establish a loan program for eligible hospitals to establish residency in training programs.

H.R. 3511. An act to designate the facility of the United States Postal Service located at 2150 East Hardtner Drive in Urania, Louisiana, as the ''Murphy A. Tannehill Post Office Building.''

H.R. 5265. An act to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal, muscular dystrophies.

H.R. 6198. An act to designate the facility of the United States Postal Service located at 1700 Cleveland Avenue in Kansas City, Missouri, as the ''Reverend Earl Abel Post Office Building.''

H.R. 6353. An act to amend the Controlled Substances Act to address online pharmacies.

H.R. 6406. An act to elevate the Inspector General of the Commodity Futures Trading Commission to an Inspector General appointed pursuant to section 3 of the Inspector General Act of 1978.

H.R. 6849. An act to amend the commodity provisions of the Food, Conservation, and Energy Act of 2008 to permit producers to aggregate base acres and reconstitute farms to avoid the prohibition on receiving direct payments, counter-cyclical payments, or average crop revenue election payments when the sum of the base acres of a farm is 10 acres or less, and for other purposes.

H.R. 6874. An act to designate the facility of the United States Postal Service located at 156 Taunton Avenue in Seekonk Massachusetts, as the ''Lance Corporal Eric Paul Valdepenas Post Office Building.''

H.R. 6908. An act to require that limitations and restrictions on coverage under group health plans be timely disclosed to group health plan sponsors and timely communicated to participants and beneficiaries under such plans in a form that is easily understandable.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 223. Concurrent resolution honoring professional surveyors and recognizing their contributions to society.

H. Con. Res. 351. Concurrent resolution honoring the 225th anniversary of the Continental Congress meeting in Nassau Hall, Princeton, New Jersey, in 1783.

H. Con. Res. 386. Concurrent resolution recognizing and celebrating the 232d anniversary of the signing of the Declaration of Independence.

The message further announced that the House has passed the following bills, without amendment:

S. 2606. An act to reauthorize the United States Fire Administration, and for other purposes.

S. 3009. An act to designate the Federal Bureau of Investigation building under construction in Omaha, Nebraska, as the ''J. James Exon Federal Bureau of Investigation Building.''

At 6:50 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 160. An act to amend the American Battlefield Protection Act of 1996 to establish a battlefield acquisition grant program for the acquisition and protection of nationally significant battlefields and associated sites of the Revolutionary War and the War of 1812, and for other purposes.

H.R. 758. An act to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations.

H.R. 1532. An act to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis, and for other purposes.

H.R. 2933. An act to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes.

H.R. 2994. An act to amend the Public Health Service Act with respect to pain care.

H.R. 4544. An act to require the issuance of medals to recognize the dedication and valor of Native American code talkers.

H.R. 4828. An act to amend the Palo Alto Battlefield National Historic Site Act of 1991 to expand the boundaries of the historic site, and for other purposes.

H.R. 6323. An act to establish a research, development, demonstration, and commercial application program to promote research of appropriate technologies for heavy duty plug-in hybrid vehicles and for other purposes.

H.R. 6980. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to increase the amount of the Medal of Honor special pension provided under that title by up to $1,000.

The message also announced that the House has passed the following bills with an amendment, in which it requests the concurrence of the Senate:

S. 2162. An act to improve the treatment and services provided by the Department of Veterans Affairs to veterans with post-traumatic stress disorder and substance use disorders, and for other purposes.

S. 3023. An act to amend title 38, United States Code, to improve and enhance compensation and pension, housing, labor and education, and insurance benefits for veterans, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 6980. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to increase the amount of the Medal of Honor special pension provided under that title by up to $1,000; to the Committee on Veterans' Affairs.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 25, 2008, she had presented to the President of the United States the following enrolled bills and joint resolutions:

S. 171. An act to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the ''Mickey Mantle Post Office Building''.

S. 2135. An act to prohibit the recruitment or use of child soldiers, to designate persons who recruit or use child soldiers as inadmissible aliens, to allow the deportation of persons who recruit or use child soldiers, and for other purposes.

S.J. Res. 35. Joint resolution to amend Public Law 108–331 to provide for the construction and related activities in support of the Very Energetic Radiation Imaging Telescope Array System (VERITAS) project in Arizona.

S.J. Res. 45. Joint resolution expressing the consent and approval of Congress to an interstate compact regarding water resources in the Great Lakes—St. Lawrence River Basin.

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–7881. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543'' ((RIN0648-XJ73)(Docket No. 071106673-8011-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7882. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer'' ((RIN0648-XJ49)(Docket No. 061109296-7009-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7883. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area'' ((RIN0648-XJ81)(Docket No. 071106673-8011-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7884. A communication from the Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Atka Mackerel in the Bering Sea and Aleutian Islands Management Area; Correction'' ((RIN0648-XJ59)(Docket No. 071106673-8011-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7885. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-grouper Fishery of the South Atlantic; Closure of the 2008 Commercial Fishery for Golden Tilefish in the South Atlantic'' ((RIN0648-XI45)(Docket No. 040205043-4043-01)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7886. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska'' ((RIN0648-XK11)(Docket No. 071106671-8010-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7887. A communication from the Acting Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries in the Western Pacific; Precious Corals Fisheries; Black Coral Quota and Gold Coral Moratorium'' ((RIN0648-AV30)(Docket No. 070720400-81019-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7888. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' ((RIN0648-XJ66)(Docket No. 071106671-8010-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7889. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Greenland Turbot in the Bering Sea and Aleutian Islands Management Area ((RIN0648-XJ95)(Docket No. 071106673-8011-02)) received on September 8, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7890. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations (including 2 regulations beginning with USCG-2008-0763)'' (RIN1625-AA00) received on September 9, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7891. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations (including 2 regulations beginning with USCG-2008-0218)'' (RIN1625-AA00) received on September 9, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7892. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area and Safety Zone, Chicago Sanitary and Ship Canal, Romeoville, IL'' ((RIN1625-AA11)(Docket No. USCG-2008-0470)) received on September 9, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7893. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone Regulations (including 10 regulations beginning with USCG-2008-0433)'' (RIN1625-AA00) received on September 9, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7894. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 ft (18.3 m) LOA and Longer Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' ((RIN0648-XK13)(Docket No. 071106673-8011-02)) received on September 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7895. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area'' ((RIN0648-XK14)(Docket No. 071106673-8011-02)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7896. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations; Water Mill and Noyack, New York'' (MB Docket No. 03-44) received on September 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7897. A communication from the Chief of the Policy Division, International Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands'' (IB Docket No. 07-253) received on September 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7898. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Reduction Plan Regulations'' ((RIN0648-AW84)(Docket No. 080509647-81084-02)) received on September 12, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7899. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Monkfish Fishery; Framework Adjustment 6 to the Monkfish Fishery Management Plan'' ((RIN0648–AW81)(Docket No. 08–627793–81063–02)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7900. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Advance Construction of Federal-Aid Projects'' (RIN2125–AF23) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7901. A communication from the Acting Assistant General Counsel for Regulations, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Nondiscrimination on the Basis of Disability in Air Travel'' (RIN2105–AC97) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7902. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cirrus Design Corporation Model SR20 and SR22 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–28245)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7903. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 and A300–600 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0222)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7904. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 700–400F, 747SR, and 747SP Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0166)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7905. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Lycoming Engines, Fuel Injected Reciprocating Engines'' ((RIN2120–AA64)(Docket No. FAA–2007–0218)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7906. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Agusta S.p.A. Model AB 139 and AW 139 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2008–0256)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7907. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 206L, L–1, L–3, L–4, and 407 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2008–0258)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7908. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230 and 430 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2008–0039)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7909. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), and MD–88 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–29335)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7910. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Lockheed Model 1329 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2007–28255)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7911. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Gulfstream Aerospace LP Model Astra SPX, 1125 Westwind Astra, and Gulfstream 100 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0299)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7912. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dassault Model Falcon 2000 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0272)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7913. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; APEX Aircraft Model CAP 10 B Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0536)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7914. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Staunton, VA'' ((Docket No. FAA–2008–0170)(Airspace Docket No. 08–AEA–16)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7915. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Restricted Area 5107A; White Sands Missile Range, NM'' ((RIN2120–AA66)(Docket No. FAA–2008–0628)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7916. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Area Navigation Route Q–110 and Jet Route J–73; Florida'' ((Docket No. FAA–2008–0187)(Airspace Docket No. 07–ASO–27)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7917. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and Class E Airspace; Altus AFB, OK; Confirmation of Effective Date'' ((Docket No. FAA–2008–0339)(Airspace Docket No. 08–ASW–5)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7918. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Factoryville, PA'' ((Docket No. FAA–2007–29361)(Airspace Docket No. 07–AEA–5)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7919. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D and Class E Airspace; Rome, NY'' ((Docket No. FAA–2008–0550)(Airspace Docket No. 08–AEA–21)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7920. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Flight Simulation Training Device Initial and Continuing Qualification and Use'' ((RIN2120–AJ12)(Docket No. FAA–2002–12461)) received on September 18, 2008; to the Committee on Commerce, Science, and Transportation.

EC–7921. A communication from the Secretary of the Treasury, transmitting, pursuant to Executive Order 13313 of July 31, 2003, the semiannual report detailing payments made to Cuba as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses; to the Committee on Foreign Relations.

EC–7922. A communication from the President of the United States, transmitting, pursuant to law, a report entitled ''Comprehensive Nuclear Threat Reduction and Security Plan''; to the Committee on Foreign Relations.

EC–7923. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to providing information on U.S. military personnel and U.S. civilian contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–7924. A communication from the Director, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, a report relative to the U.S. Agency for International Development's accounting of fiscal year 2007 drug control obligations and performance measures; to the Committee on Foreign Relations.

EC–7925. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad; to the Committee on Foreign Relations.

EC–7926. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2008–149—2008–153); to the Committee on Foreign Relations.

EC–7927. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed transfer of major defense equipment from the ex-HMAS Canberra, a Frigate of the Oliver Hazard Perry Class, to the Australian State Government of Victoria; to the Committee on Foreign Relations.

EC–7928. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed manufacturing license for the manufacture of significant military equipment abroad (Centaur High Capacity Data Radio); to the Committee on Foreign Relations.

EC–7929. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Amendment to the International Arms Traffic in Arms Regulations: Rwanda'' (22 CFR Part 126) received on September 18, 2008; to the Committee on Foreign Relations.

EC–7930. A communication from the Administrator, Business and Cooperative Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Intermediary Relending Program'' (RIN0570–AA70) received on September 17, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7931. A communication from the Assistant Director of the Directives and Regulations Branch, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Predecisional Administrative Review Process for Hazardous Fuel Reduction Projects Authorized Under the Healthy Forests Restoration Act of 2003'' (RIN0596–AC15) received on September 15, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7932. A communication from the Division Director, Policy Issuances Division, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Accredited Laboratory Programs'' (RIN0583–AD09) received on September 18, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7933. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Dry Pea Crop Provisions'' (RIN0563–AC14) received on September 18, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7934. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tuberculosis; Amend the Status of California from Accredited Free to Modified Accredited Advanced'' (Docket No. APHIS–2008–0067) received on September 18, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7935. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''National Animal Identification System; Use of 840 Animal Identification Numbers for U.S.-Born Animals Only'' (Docket No. APHIS–2008–0077) received on September 18, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7936. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled ''Tuberculosis; Amend the Status of New Mexico from Accredited Free to Modified Accredited Advanced'' (Docket No. APHIS–2008–0068) received on September 17, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7937. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on a violation of the Anti-Deficiency Act relative to the Senior Community Service Employment Program (SCSEP); to the Committee on Appropriations.

EC–7938. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, a report on a violation of the Anti-Deficiency Act relative to a lease agreement for additional office space in Washington, D.C.; to the Committee on Appropriations.

EC–7939. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report entitled ''2008 Report to Congress on Sustainable Ranges''; to the Committee on Armed Services.

EC–7940. A communication from the Chief, Programs and Legislation Division, Department of the Air Force, transmitting, pursuant to law, a report relative to a public-private competition conducted on September 8, 2008; to the Committee on Armed Services.

EC–7941. A communication from the Chief, Programs and Legislation Division, Department of the Air Force, transmitting, pursuant to law, a report relative to the initiation of a single function standard competition of the Maintenance Function located at Kaena Point; to the Committee on Armed Services.

EC–7942. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility'' ((Docket No. FEMA–8037)(44 CFR Part 64)) received on September 12, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7943. A communication from the Associate General Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Home Equity Conversion Mortgages (HECMs): Determination of Maximum Claim Amount; and Eligibility for Discounted Mortgage Insurance Premium for Certain Refinanced HECM Loans'' (RIN2502–AI49) received on September 12, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7944. A communication from the Chief Council, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' ((Docket No. FEMA–B–1001)(44 CFR Part 65)) received on September 18, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7945. A communication from the General Counsel, Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Golden Parachute Payments and Indemnification Payments'' (RIN2590–AA08) received on September 15, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7946. A communication from the Deputy Director, Terrorism Risk Insurance Program, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Terrorism Risk Insurance Program Reauthorization Act Implementation'' (RIN1505–AB93) received on September 16, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7947. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((73 FR 52621)(44 CFR Part 67)) received on September 18, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7948. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Assessment of Fees'' ((RIN1556–AD06)(Docket No. OCC–2008–0013)) received on September 18, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC–7949. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the technical milestones for 2020 goals and project status for the Clean Coal Power Initiative; to the Committee on Energy and Natural Resources.

EC–7950. A communication from the Acting Chief Human Capital Officer, Department of Energy, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Assistant Secretary, Energy Efficiency and Renewable Energy, received on September 12, 2008; to the Committee on Energy and Natural Resources.

EC–7951. A communication from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Bonus of Royalty Credits for Relinquishing Certain Leases Offshore Florida'' (RIN1010–AD44) received on September 12, 2008; to the Committee on Energy and Natural Resources.

EC–7952. A communication from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled ''Special Regulation: Areas of the National Park System'' (RIN1024–AD53) received on September 16, 2008; to the Committee on Energy and Natural Resources.

EC–7953. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Alabama Regulatory Program'' ((SATS No. AL–074–FOR)(30 CFR Part 901)) received September 18, 2008; to the Committee on Energy and Natural Resources.

EC–7954. A communication from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Industry Codes and Standards; Amended Requirements'' (RIN3150–AH76) received on September 12, 2008; to the Committee on Environment and Public Works.

EC–7955. A communication from the Assistant Secretary for Administration and Management, Chief Acquisition Officer, Department of Labor, transmitting, pursuant to law, a report relative to the fiscal year 2007 Buy American Report; to the Committee on Health, Education, Labor, and Pensions.

EC–7956. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of Administrator, Substance Abuse and Mental Health Services Administration, received on September 18, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7957. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a vacancy and discontinuation of service in acting role for the position of General Counsel, received on September 18, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7958. A communication from the White House Liaison, Department of Health and Human Services, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer for the position of General Counsel, received on September 18, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC–7959. A communication from the Acting Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report relative to the activities performed by the agency that are not inherently governmental functions; to the Committee on Homeland Security and Governmental Affairs.

EC–7960. A communication from Acting Chairman, National Transportation Safety Board, transmitting, pursuant to law, a report entitled ''Fiscal Year 2007 Annual Report on the Notification and Federal Employee Antidiscrimination And Retaliation Act of 2002''; to the Committee on Homeland Security and Governmental Affairs.

EC–7961. A communication from the Acting Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Redefinition of the New Orleans, Louisiana, Appropriated Fund Federal Wage System Wage Area'' (RIN3206–AL68) received on September 18, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC–7962. A communication from the Principal Deputy Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''Report of Lobbying Disclosure Act Enforcement''; to the Committee on the Judiciary.

EC–7963. A communication from the Deputy White House Liaison, Department of Justice, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer in the position of United States Attorney, Northern District of New York, received on September 18, 2008; to the Committee on the Judiciary.

EC–7964. A communication from the Deputy General Counsel and Designated Reporting Official, Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of a vacancy and designation of an acting officer in the position of Deputy Director for Demand Reduction, received on September 18, 2008; to the Committee on the Judiciary.

EC–7965. A communication from the Director, Regulation Policy and Management, Department of Veterans, transmitting, pursuant to law, the report of a rule entitled ''Schedule for Rating Disabilities; Evaluation of Scars'' (RIN2900–AM55) received on September 18, 2008; to the Committee on Veterans' Affairs.

EC–7966. A communication from the Director, Regulation Policy and Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Presumption of Service Connection for Amyotrophic Lateral Sclerosis'' (RIN2900–AN05) received on September 18, 2008; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Indian Affairs, with amendments:

H.R. 2963. A bill to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes (Rept. No. 110–503).

H.R. 5680. To amend certain laws relating to Native Americans, and for other purposes (Rept. No. 110–504).

By Mr. DORGAN, from the Committee on Indian Affairs, without amendment:

S. 160. A bill to provide for compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River (Rept. No. 110–505).

S. 2489. A bill to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program (Rept. No. 110–506).

By Mr. LEAHY, from the Committee on the Judiciary:

Report to accompany S. 2041, a bill to amend the False Claims Act (Rept. No. 110–507).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 3160. A bill to reauthorize and amend the National Sea Grant College Program Act, and for other purposes (Rept. No. 110–508).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 1943. A bill to provide for an effective HIV AIDS program in Federal prisons.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment in the nature of a substitute:

H.R. 2631. To strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 3971. To encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 659. A resolution designating September 27, 2008, as Alcohol and Drug Addiction Recovery Day.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 3477. A bill to amend title 44, United States Code, to authorize grants for Presidential Centers of Historical Excellence.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 3501. A bill to ensure that Congress is notified when the Department of Justice determines that the Executive Branch is not bound by a statute.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Clark Waddoups, of Utah, to be United States District Judge for the District of Utah.

Michael M. Anello, of California, to be United States District Judge for the Southern District of California.

Mary Stenson Scriven, of Florida, to be United States District Judge for the Middle District of Florida.

Christine M. Arguello, of Colorado, to be United States District Judge for the District of Colorado.

Philip A. Brimmer, of Colorado, to be United States District Judge for the District of Colorado.

Gregory G. Garre, of Maryland, to be Solicitor General of the United States.

George W. Venables, of California, to be United States Marshal for the Southern District of California for the term of four years.

A. Brian Albritton, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years.

Anthony John Trenga, of Virginia, to be United States District Judge for the Eastern District of Virginia.

C. Darnell Jones II, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Mitchell S. Goldberg, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Joel H. Slomsky, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

Eric F. Melgren, of Kansas, to be United States District Judge for the District of Kansas.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY (for herself, Mr. KENNEDY, Mrs. CLINTON, Mr. SANDERS, and Mr. BROWN):

S. 3573. A bill to establish partnerships to create or enhance educational and skills development pathways to 21st century careers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN (for himself and Mrs. CLINTON):

S. 3574. A bill to establish the Honorable Stephanie Tubbs Jones Fire Suppression Demonstration Incentive Program within the Department of Education to promote installation of fire sprinkler systems, or other fire suppression or prevention technologies, in qualified student housing and dormitories, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CARPER (for himself and Ms. MURKOWSKI):

S. 3575. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to nutrition labeling of food offered for sale in food service establishments; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 3576. A bill to prohibit the issuance of any lease or other authorization by the Federal Government that authorizes exploration, development, or production of oil or natural gas in any marine national monument or national marine sanctuary or in the fishing grounds known as Georges Bank in the waters of the United States; to the Committee on Energy and Natural Resources.

By Mr. LEVIN (for himself, Mr. BINGAMAN, and Mr. HARKIN):

S. 3577. A bill to amend the Commodity Exchange Act to prevent excessive price speculation with respect to energy and agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ENSIGN:

S. 3578. A bill to establish a commission to assess the nuclear activities of the Islamic Republic of Iran; to the Committee on Foreign Relations.

By Mr. MARTINEZ (for himself and Mr. KOHL):

S. 3579. A bill to encourage, enhance, and integrate Silver Alert plans throughout the United States, to authorize grants for the assistance of organizations to find missing adults, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. 3580. A bill to assure the safety of expeditionary facilities, infrastructure, and equipment supporting United States military operations overseas; to the Committee on Armed Services.

By Mr. BOND:

S. 3581. A bill to establish a Federal Mortgage Origination Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. DODD, and Mr. LIEBERMAN):

S. 3582. A bill to require continued application of budget neutrality on a national basis in calculation of the Medicare urban hospital wage floor; to the Committee on Finance.

By Mr. WHITEHOUSE:

S. 3583. A bill to limit or deny civil service protection for a Federal employee if the appointment of that employee is a prohibited personnel practice that was made on the basis of political affiliation as prohibited under any law, rule, or regulation; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN:

S. 3584. A bill to comprehensively prevent, treat, and decrease overweight and obesity in our Nation's populations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LIEBERMAN (for himself and Ms. COLLINS):

S. 3585. A bill to amend title 10, United States Code, to establish the responsibility of the Department of Defense to plan for and respond to catastrophic incidents in the United States, and for other purposes; to the Committee on Armed Services.

By Mrs. CLINTON:

S. 3586. A bill to provide loans to hospitals and nonprofit health care institutions to implement green building technologies, waste management techniques, and other environmentally sustainable practices to improve employee performance, reduce healthcare costs, and improve patient outcomes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 3587. A bill to direct the Administrator of the Environmental Protection Agency to provide grants to hospitals and nonprofit health care institutions for use in improving building and maintenance operations to engage in environmentally sustainable practices; to the Committee on Environment and Public Works.

By Mrs. CLINTON:

S. 3588. A bill to direct the Secretary of Agriculture to provide grants to hospitals and other nonprofit inpatient healthcare institutions, Department of Veterans Affairs medical centers, and other social service programs for the acquisition of local nutritious agricultural products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. MCCASKILL (for herself and Mr. BOND):

S. 3589. A bill to designate the Liberty Memorial at the National World War I Museum in Kansas City, Missouri, as the National World War I Memorial; to the Committee on Energy and Natural Resources.

By Mr. REID:

S. 3590. A bill to provide grants for use by rural local educational agencies in purchasing new school buses; to the Committee on Commerce, Science, and Transportation.

By Mrs. DOLE (for herself and Mr. BURR):

S. 3591. A bill to amend the Clean Air Act to improve motor fuel supply and distribution; to the Committee on Environment and Public Works.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 3592. A bill to designate 4 counties in the State of New York as high-intensity drug trafficking areas, and to authorize funding for drug control activities in those areas; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself and Mr. SCHUMER):

S. 3593. A bill to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ (for himself and Mr. KENNEDY):

S. 3594. A bill to protect United States citizens from unlawful arrest and detention; to the Committee on the Judiciary.

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

S. 3595. A bill to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY:

S. 3596. A bill to stabilize the small business lending market, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. HARKIN:

S. 3597. A bill to provide that funds allocated for community food projects for fiscal year 2008 shall remain available until September 30, 2009; considered and passed.

By Mr. INOUYE (for himself, Mr. STEVENS, Mr. LAUTENBERG, Mr. SMITH, Ms. CANTWELL, Ms. SNOWE, Mr. NELSON of Florida, Mr. PRYOR, Mr. KERRY, Mr. BIDEN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, and Mr. MARTINEZ):

S. 3598. A bill to amend titles 46 and 18, United States Code, with respect to the operation of submersible vessels and semi-submersible vessels without nationality; considered and passed.

By Mr. KYL:

S. 3599. A bill to amend title 18, United States Code, to add crimes committed in Indian country or exclusive Federal jurisdiction as racketeering predicates; to the Committee on the Judiciary.

By Mr. KYL:

S. 3600. A bill to amend title 35, United States Code, to provide for patent reform; to the Committee on the Judiciary.

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

S. 3601. A bill to authorize funding for the National Crime Victim Law Institute to provide support for victims of crime under Crime Victims Legal Assistance Programs as a part of the Victims of Crime Act of 1984; to the Committee on the Judiciary.

By Mr. KYL:

S. 3602. A bill to authorize funding for the National Crime Victim Law Institute to provide support for victims of crime under Crime Victims Legal Assistance Programs as a part of the Victims of Crime Act of 1984; to the Committee on the Judiciary.

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

S. 3603. A bill to promote conservation and provide for sensible development in Carson City, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN:

S. Res. 685. A resolution designating the last week of September 2008 as ''National Voter Awareness Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 400

At the request of Mr. SUNUNU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 400, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to ensure that dependent students who take a medically necessary leave of absence do not lose health insurance coverage, and for other purposes.

S. 826

At the request of Mr. MENENDEZ, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 826, a bill to posthumously award a Congressional gold medal to Alice Paul, in recognition of her role in the women's suffrage movement and in advancing equal rights for women.

S. 1492

At the request of Mr. INOUYE, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1492, a bill to improve the quality of federal and state data regarding the availability and quality of broadband services and to promote the deployment of affordable broadband services to all parts of the Nation.

S. 1738

At the request of Mr. VITTER, his name was added as a cosponsor of S. 1738, a bill to require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.

At the request of Mr. REID, his name and the name of the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1738, supra.

S. 2405

At the request of Mr. BAYH, his name was added as a cosponsor of S. 2405, a bill to provide additional appropriations for payments under section 2604(e) of the Low-Income Home Energy Assistance Act of 1981.

S. 2641

At the request of Mr. GRASSLEY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2641, a bill to amend title XVIII and XIX of the Social Security Act to improve the transparency of information on skilled nursing facilities and nursing facilities and to clarify and improve the targeting of the enforcement of requirements with respect to such facilities.

S. 2668

At the request of Mr. KERRY, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Iowa (Mr. HARKIN), the Senator from Utah (Mr. BENNETT) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2883

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 2883, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 3070

At the request of Mr. WHITEHOUSE, his name was withdrawn as a cosponsor of S. 3070, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America, and for other proposes.

S. 3308

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3308, a bill to require the Secretary of Veterans Affairs to permit facilities of the Department of Veterans Affairs to be designated as voter registration agencies, and for other purposes.

S. 3325

At the request of Mr. LEAHY, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from New York (Mrs. CLINTON) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 3325, a bill to enhance remedies for violations of intellectual property laws, and for other purposes.

S. 3331

At the request of Mr. CRAPO, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 3331, a bill to amend the Internal Revenue Code of 1986 to require that the payment of the manufacturers' excise tax on recreational equipment be paid quarterly.

S. 3367

At the request of Mr. SMITH, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3367, a bill to amend title XVIII of the Social Security Act to revise the timeframe for recognition of certain designations in certifying rural health clinics under the Medicare program.

S. 3389

At the request of Mr. SCHUMER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 3389, a bill to require, for the benefit of shareholders, the disclosure of payments to foreign governments for the extraction of natural resources, to allow such shareholders more appropriately to determine associated risks.

S. 3419

At the request of Mrs. CLINTON, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 3419, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to modernize the disability benefits claims processing system of the Department of Veterans Affairs to ensure the accurate and timely delivery of compensation to veterans and their families and survivors, and for other purposes.

S. 3484

At the request of Mr. SPECTER, the names of the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from North Dakota (Mr. CONRAD), the Senator from Hawaii (Mr. INOUYE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 3484, a bill to provide for a delay in the phase out of the hospice budget neutrality adjustment factor under title XVIII of the Social Security Act.

S. 3517

At the request of Ms. SNOWE, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 3517, a bill to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to provide parity under group health plans and group health insurance coverage for the provision of benefits for prosthetic devices and components and benefits for other medical and surgical services.

S. 3525

At the request of Mr. CARDIN, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Illinois (Mr. OBAMA) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 3525, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the ''Star-Spangled Banner'', and for other purposes.

S. 3527

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 3527, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority.

S. 3532

At the request of Mr. CARDIN, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 3532, a bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to establish the standard mileage rate for use of a passenger automobile for purposes of the charitable contributions deduction and to exclude charitable mileage reimbursements from gross income.

S. 3538

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3538, a bill to amend the Food, Conservation, and Energy Act of 2008 to suspend a prohibition on payments to certain farms with limited base acres for the 2008 and 2009 crop years, to extend the signup for direct payments and counter-cyclical payments for the 2008 crop year, and for other purposes.

S. 3539

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 3539, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of the Girl Scouts of the United States of America.

S. 3569

At the request of Mr. SCHUMER, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 3569, a bill to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. RES. 499

At the request of Mr. SPECTER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 499, a resolution urging Palestinian Authority President Mahmoud Abbas, who is also the head of the Fatah Party, to officially abrogate the 10 articles in the Fatah Constitution that call for Israel's destruction and terrorism against Israel, oppose any political solution, and label Zionism as racism.

S. RES. 664

At the request of Mrs. DOLE, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 664, a resolution celebrating the centennial of Union Station in Washington, District of Columbia.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. BINGAMAN, and Mr. HARKIN):

S. 3577. A bill to amend the Commodity Exchange Act to prevent excessive price speculation with respect to energy and agricultural commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEVIN. Mr. President, energy prices are on a roller coaster, taking American consumers and the American economy on an unpredictable, expensive, and damaging ride. Just over a year ago, a barrel of crude oil sold for $70 a barrel. In less than a year, the price doubled to nearly $147. Last week, that same barrel of oil cost $91, a price drop of $56 over a few months. Just in the past week crude oil prices have jumped from about $96 per barrel to $130 per barrel and then back to $106 per barrel. No one knows whether, by the end of the year, the price of oil will stay around $100, drop lower, or climb back up. The huge price spikes we experienced can't be explained by changes in supply and demand; about half the trading in oil futures results from speculation as to whether oil prices will rise or fall by traders without any interest in actually using the oil they are buying and selling.

The natural gas, gasoline, and heating oil markets have also seen huge price swings. The prices are up, they are down, they are unpredictable—making it impossible for many businesses and consumers to afford even basic goods and services.

The sky-high oil and gasoline prices in effect for the last year are taking a tremendous toll on millions of American consumers and businesses. Speculation—not supply and demand—is keeping prices high, and our economy is forced to respond to erratic price changes. Unless we act to protect our energy markets from excessive speculation and price manipulation, the American economy will continue to be vulnerable to wild price swings affecting the prices of transportation, food, manufacturing and everything in between, endangering the economic security of our people, our businesses, and our Nation.

Congress should act now to help tame rampant speculation and reinvigorate supply and demand as market forces.

Today, I am introducing legislation, along with Senators BINGAMAN and HARKIN, that represents our collective effort to enact the strongest and most workable measures to prevent excessive speculation and price manipulation in U.S. energy markets. It will close the loopholes in our commodities laws that now impede the policing of U.S. energy trades on foreign exchanges and in the unregulated over-the-counter market. It will ensure that large commodity traders cannot use these markets to hide from CFTC oversight or avoid limits on speculation. The bill will strengthen disclosure, oversight, and enforcement in U.S. energy markets, restoring the financial oversight that is crucial to protect American consumers, American businesses, and the U.S. economy from further energy shocks.

More specifically, this legislation would make four sets of changes.

It will require the CFTC to set limits on the holdings of traders in all of the energy futures contracts traded on regulated exchanges to prevent traders from engaging in excessive speculation or price manipulation. Since we closed the Enron loophole this year all futures contracts must be traded in regulated markets.

It would close the ''London loophole'' by giving the CFTC the same authority to police traders in the United States who trade U.S. futures contracts on a foreign exchange and by requiring foreign exchanges that want to install trading terminals in the U.S. to impose comparable limits on speculative trading as the CFTC imposes on domestic exchanges to prevent excessive speculation and price manipulation.

It will close the ''swaps loophole'' by requiring traders in the over-the-counter energy markets to report large trades to the CFTC, and it would authorize the CFTC to set limits on trading in the presently unregulated over-the-counter markets to prevent excessive speculation and price manipulation.

It will require the CFTC to revise the standards that allow traders who use futures markets to hedge their holdings to exceed the speculation limits that apply to everyone else.

My Permanent Subcommittee on Investigations' investigations have shown that one key factor in price spikes of energy is increased speculation in the energy markets. Traders are trading contracts for future delivery of oil in record amounts, creating a demand for paper contracts that gets translated into increases in prices and increasing price volatility.

Much of this increase in trading of futures has been due to speculation. Speculators in the oil market do not intend to use oil; instead they buy and sell contracts for crude oil in the hope of making a profit from changing prices. According to the CFTC's data, the number of futures and options contracts held by speculators has gone from around 100,000 contracts in 2001, which was 20 percent of the total number of outstanding contracts, to almost 1.2 million contracts, which represents almost 40 percent of the outstanding futures and options contracts in oil on NYMEX Even this understates the increase in speculation, since the CFTC data classifies futures trading involving index funds as commercial trading rather than speculation, and the CFTC classifies all traders in commercial firms as commercial traders, regardless of whether any particular trader in that firm may in fact be speculating.

There is now, as a result, 12 times as many speculative holdings as there was in 2001, while holdings of nonspeculative or commercial futures and options is up but three times. The greater the demand there is to buy futures contracts for the delivery of a commodity, the higher the price will be for those futures contracts.

Not surprisingly, therefore, this massive speculation that the price of oil will increase, together with the increase in the amount of purchases of futures contracts, in fact, helped increase the price of oil to a level far above the price that is justified by the traditional forces of supply and demand.

In June 2006, I released a subcommittee report, ''The Role of Market Speculation in Rising Oil and Gas Prices: A Need to Put a Cop on the Beat.'' This report found that the traditional forces of supply and demand didn't account for sustained price increases and price volatility in the oil and gasoline markets. The report concluded that, in 2006, a growing number of trades of contracts for future delivery of oil occurred without regulatory oversight and that market speculation had contributed to rising oil and gasoline prices, perhaps accounting for $20 out of a then-priced $70 barrel of oil.

Oil industry executives and experts have arrived at a similar conclusion. Late last year, the President and CEO of Marathon Oil said, ''$100 oil isn't justified by the physical demand in the market. It has to be speculation on the futures market that is fueling this.'' Mr. Fadel Gheit, oil analyst for Oppenheimer and Company describes the oil market as ''a farce.'' ''The speculators have seized control and it's basically a free-for-all, a global gambling hall, and it won't shut down unless and until responsible governments step in.'' In January of this year, when oil first hit $100 per barrel, Mr. Tim Evans, oil analyst for Citigroup, wrote ''the larger supply and demand fundamentals do not support a further rise and are, in fact, more consistent with lower price levels.'' At the joint hearing on the effects of speculation we held last December, Dr. Edward Krapels, a financial market analyst, testified, ''Of course financial trading, speculation affects the price of oil because it affects the price of everything we trade. . . . It would be amazing if oil somehow escaped this effect.'' Dr. Krapels added that as a result of this speculation ''there is a bubble in oil prices.''

The need to control speculation is urgent. The presidents and CEOs of major U.S. airlines recently warned about the disastrous effects of rampant speculation on the airline industry. The CEOs stated ''normal market forces are being dangerously amplified by poorly regulated market speculation.'' The CEOs wrote, ''For airlines, ultra-expensive fuel means thousands of lost jobs and severe reductions in air service to both large and small communities.''

As to reining in speculation, the first step to take is to put a cop back on the beat in all our energy markets to prevent excessive speculation, price manipulation, and trading abuses.

With respect to the futures markets, the legislation we are introducing today requires the CFTC to establish limits on the amount of futures contracts any trader can hold. Currently, the CFTC allows the futures exchanges themselves to set these limits. This bill would require the CFTC to set these limits to prevent excessive speculation and price manipulation. It would preserve, however, the exchanges' obligation and ability to police their traders to ensure they remain below these limits.

This legislation would also require the CFTC to conduct a rulemaking to review and revise the criteria for allowing traders who are using the futures market to hedge their risks in a commodity to acquire holdings in excess of the limits on holdings for speculators.

Another step is to give the CFTC authority to prevent excessive speculation in the over-the-counter markets. In 2007, my Subcommittee issued a report on the effects of speculation in the energy markets, entitled ''Excessive Speculation in the Natural Gas Market.'' This investigation showed that speculation by a hedge fund named Amaranth distorted natural gas prices during the summer of 2006 and drove up prices for average consumers. The report demonstrated how Amaranth had shifted its speculative activity to unregulated markets, under the ''Enron loophole,'' to avoid the restrictions and oversight in the regulated markets, and how Amaranth's trading in the unregulated markets contributed to price increases.

Following this investigation, I introduced a bill, S. 2058, to close the Enron loophole and regulate the unregulated electronic energy markets. Working with Senators FEINSTEIN and SNOWE, and with the members of the Agriculture Committee in a bipartisan effort, we included an amendment to close the Enron loophole in the farm bill, which Congress passed this past spring, overriding a veto by President Bush.

The legislation to close the Enron loophole placed over-the-counter—OTC—electronic exchanges under CFTC regulation. However, this legislation did not address the separate issue of trading in the rest of the OTC market, which includes bilateral trades through voice brokers, swap dealers, and direct party-to-party negotiations. In order to ensure there is a cop on the beat in all of the energy commodity markets, we need to address the rest of the OTC market as well.

Previously, I introduced legislation, S. 3255, along with Senator FEINSTEIN, the Over-the-Counter Speculation Act, to address the rest of the OTC market not covered by the farm bill. A large portion of this OTC market consists of the trading of swaps relating to the price of a commodity. Generally, commodity swaps are contracts between two parties where one party pays a fixed price to another party in return for some type of payment at a future time depending on the price of a commodity. Because some of these swap instruments look very much like futures contracts—except that they do not call for the actual delivery of the commodity—there is concern that the price of these swaps that are traded in the unregulated OTC market could affect the price of the very similar futures contracts that are traded on the regulated futures markets. We don't yet know for sure that this is the case, or that it is not, because we don't have any access to comprehensive data or reporting on the trading of these swaps in the OTC market.

The legislation introduced today includes these same provisions to give the CFTC oversight authority to stop excessive speculation in the over-the-counter market. These provisions represent a practical, workable approach that will enable the CFTC to obtain key information about the OTC market to enable it to prevent excessive speculation and price manipulation. These

provisions are also included in the legislation introduced by the majority leader and others, S. 3268, to stop excessive speculation.

Under these provisions, the CFTC will have the authority to ensure that traders cannot avoid the CFTC reporting requirements by trading swaps in the unregulated OTC market instead of regulated exchanges. It will enable the CFTC to act, such as by requiring reductions in holdings of futures contracts or swaps, against traders with large positions in order to prevent excessive speculation or price manipulation regardless of whether the trader's position is on an exchange or in the OTC market.

The bill we are introducing today, unlike S. 3255, gives the CFTC the authority to establish position limits in the over-the-counter market for energy and agricultural commodities in order to prevent excessive speculation and price manipulation. The CFTC needs this authority to ensure that large traders are not using the over-the-counter markets to evade the position limits in the futures markets.

Earlier this year I introduced legislation with Senators FEINSTEIN, DURBIN, DORGAN and BINGAMAN, S.3129, to close the London loophole. This loophole has allowed crude oil traders in the U.S. to avoid the position limits that apply to trading on U.S. futures exchanges by directing their trades onto the ICE Futures Exchange in London. The legislation we introduced also was incorporated into the legislation to stop prevent excessive speculation introduced by the majority leader, S. 3268. These provisions are now included in the legislation we are introducing today.

After this legislation was first introduced, the CFTC imposed more stringent requirements upon the ICE Futures Exchange's operations in the United States—for the first time requiring the London exchange to impose and enforce comparable position limits in order to be allowed to keep its trading terminals in the United States. This is the very action our legislation called for. However, the current CFTC position limits apply only to the nearest futures contract. Our legislation will ensure that foreign exchanges with trading terminals in the U.S. will apply position limits to other futures contracts once the CFTC establishes those limits for U.S. exchanges.

Although the CFTC has taken these important steps that will go a long way towards closing the London loophole, Congress should still pass this legislation to make sure the London loophole stays closed. The legislation would put the conditions the CFTC has imposed upon the London exchange into statute, and ensure that the CFTC has clear authority to take action against any U.S. trader who is manipulating the price of a commodity or excessively speculating through the London exchange, including requiring that trader to reduce positions.

The legislation we are introducing today also includes a number of provisions in the majority leader's bill, S. 3248, that require a variety of studies, investigations, and reports designed to improve the transparency and regulation of the energy markets. It also provides authorization for the CFTC to hire an additional 100 employees to oversee the commodity markets it regulates.

On September 11, the CFTC issued a ''Staff Report on Commodity Swap Dealers and Index Traders with Commission Recommendations.'' The legislation we have introduced embodies several of the CFTC's recommendations to improve the transparency and regulation of swap dealers and commodity index traders. These recommendations include: develop and regularly publish reports on the activity of swap dealers and commodity index traders; more accurately assess the type of trading activity in the CFTC's weekly reports on commercial and noncommercial trading; review whether to eliminate the bona fide hedge exemption for swap dealers and create new limited risk management exemption; provide additional staff and resources for the CFTC.

Our legislation also is consistent with CFTC Commissioner Chilton's dissenting views on the CFTC's recommendations. In his dissent, Commissioner Chilton requested that Congress provide: ''specific statutory authorities to allow the Commission to obtain data regarding over-the-counter transactions that may impact exchange-traded markets; ''specific statutory authorities to allow the Commission to address market disturbances or violations of the Commodity Exchange Act, based on the data received regarding over-the-counter transactions;'' and authorization and appropriation for 100 additional employees.

Our bill provides the CFTC with the statutory authorities requested by Commissioner Chilton and authorizes the requested employees.

In summary, the legislation we are introducing today will give the CFTC ability to police all of our energy commodity markets to prevent excessive speculation and price manipulation. This legislation is necessary to close all of the loopholes in current law that permit speculators to avoid trading limits designed to prevent the type of excessive speculation that has been contributing to high energy prices. We hope our colleagues will support this legislation.

Mr. President, I ask unanimous consent that a bill summary be printed in the RECORD.

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

THE LEVIN-BINGAMAN-HARKIN PREVENT EXCESSIVE SPECULATION ACT BILL SUMMARY, SEPT. 24, 2008

The Levin-Bingaman-Harkin Prevent Excessive Speculation Act would:

Authorize Speculation Limits for all Energy and Agricultural Commodities.

Direct CFTC to impose position limits on energy and agricultural futures contracts to prevent excessive speculation and manipulation and to ensure sufficient market liquidity. Similar to provisions in House-passed bill, H.R. 6604.

Authorize CFTC to permit exchanges to impose and enforce accountability levels that are lower than CFTC-established speculation limits.

Close London Loophole by Regulating Offshore Traders and Increasing Transparency of Offshore Trades.

Prohibit a foreign exchange from operating in the United States unless it imposes comparable speculation limits and reporting requirements as apply to U.S. exchanges. Similar to §3 in S. 3268, with technical changes.

Provide CFTC with same enforcement authority over U.S. traders on foreign exchanges as it has over traders on U.S. exchanges, including authority to require traders to reduce their holdings to prevent excessive speculation or manipulation. Similar to §4 in S. 3268.

Require CFTC to invite non-U.S. regulators to form an international working group to develop uniform regulatory and reporting requirements to protect futures markets from excessive speculation and manipulation. Similar to §5 in S. 3268.

Close the Swaps Loophole and Regulate Over-the-Counter Transactions.

Authorize CFTC to impose speculation limits on OTC transactions to protect the integrity of prices in the futures markets and cash markets.

Require large OTC trades that affect futures prices to be reported to CFTC. Allow one party to a transaction to authorize the other party to file the report. Require CFTC periodic review of reporting requirements to ensure key trades are covered.

Direct CFTC to revise bona fide hedge exemption to ensure regulation of all speculators, and strengthen data analysis and transparency of swap dealer and index trading.

Clarify definition of OTC transactions to exclude spot market transactions.

Protect Both Energy and Agriculture Commodities.

Cover trades in crude oil, natural gas, gasoline, heating oil, coal, propane, electricity, other petroleum products and sources of energy from fossil fuels, as well as ethanol, biofuels, emission allowances for greenhouse gases, SO_2, NO_x, and other air emissions.

Cover trades in agricultural commodities listed in the Commodity Exchange Act.

Strengthen CFTC Oversight.

Authorize CFTC to hire 100 new personnel to oversee markets.

Direct CFTC to issue proposed rules within 90 days and final rules within 180 days.

Authorize Reports and Studies.

Require various investigations, studies, and reports. Same as §§8–15 in S. 3268.

By Mr. ENSIGN:

S. 3578. A bill to establish a commission to assess the nuclear activities of the Islamic Republic of Iran; to the Committee on Foreign Relations.

Mr. ENSIGN. Mr. President, I rise today to address an issue of critical importance to the security of our Nation and the world. I want to talk about the future of Iran's nuclear capabilities and what it means for the United States.

Too often here in Washington, we get caught up in the debate of the moment and fail to appreciate the larger picture. Too many are more concerned with petty blame games and not enough are concerned with the greater challenge of protecting Americans.

General Michael Hayden, the Director of Central Intelligence, has said that he believes Iran is seeking nuclear weapons. Others, including the President of the United States and the leaders of France and Great Britain agree.

I ask myself what would happen if the Ahmadinejad regime in Iran succeeded in acquiring a nuclear weapon. Among the possibilities, he could use that weapon. Iran could share it with terrorists or other rogue states. At a minimum, an Iranian nuke would prompt its neighbors in the Gulf, in Turkey, in Egypt and elsewhere to seek a similar ability in order to defend themselves against Iran's efforts to gain regional dominance.

The stakes could not be higher, and I am concerned that we are not meeting the challenge. To the contrary, I believe we are being tested, and we are failing.

Iran is the most active state sponsor of terrorism around the world. In addition to its long time support for groups like Hezbollah and Hamas, Iran is now active in directing aggression against our troops in Iraq, sponsoring not only Shiite extremists but even Sunni terror groups. According to General Petraeus, ''...Iran has played [a fundamental role] in funding, training, arming, and directing the so-called Special Groups and generated renewed concern about Iran in the minds of many Iraqi leaders. Unchecked, the Special Groups pose the greatest long-term threat to the viability of a democratic Iraq.''

In addition to its destabilizing sponsorship of violence across the Middle East, we also know that Iran is working on delivery vehicles for deadly weapons. The regime has continuously upgraded its missile capabilities, and now has delivery vehicles that can strike targets all over the Middle East and into Europe. Couple that knowledge with the evidence available that Iran has worked on fitting nuclear warheads onto these missiles, and we have even more practical reasons for concern.

Iranian President Mahmoud Ahmadinejad has stated emphatically that his Nation ''will not give up one iota of its nuclear rights.''

Where does this leave the United States, and the American people, in confronting this growing and multidimensional threat? Unfortunately, the answer appear, to be: confused.

The clearest evidence that we have yet to focus on the exact nature of the Iranian threat—an understanding that is imperative if we are going to succeed in countering it—is last year's National Intelligence Estimate on Iran.

Although leaders and intelligence agencies around the world believe that Iran is indeed pursuing nuclear weapons, the NIE drew confusing, misleading, and contradicting conclusions. In dramatic phrasing clearly designed to mislead, the NIE states that ''We judge with high confidence that in fall 2003, Tehran halted its nuclear weapons program.'' In a footnote that got short shrift from both the press and the jubilant Iranian regime, the analysts explain that what they say '' 'nuclear weapons program' we mean Iran's nuclear weapon design and weaponization work and covert uranium conversion-related and uranium enrichment-related work; we do not mean Iran's declared civil work related to uranium conversion and enrichment.'' In other words, the work referred to that had ''halted'' was in fact work that this Congress had heretofore not been able to confirm, and that we were uncertain existed. What continued, according to the NIE, was Iran's attempts to use its licit nuclear program to develop nuclear weapons capability. Which is exactly what we have been worrying about all along.

Since the NIE, the intelligence community has backed away from its original assessment. The Director of National Intelligence, Vice Admiral Mike McConnell said that Iran could ''probably'' produce the fissile material needed for a nuclear weapon by as early as 2010. He has also testified that he would ''change the way we described the nuclear program'' in the NIE.

Both Hayden and McConnell have also admitted that the NIE was so quickly declassified and poorly focused that it confused people. Unfortunately, the damage is done. The notion that Iran has suspended its nuclear program—however false that may be—has derailed our diplomatic push to a great extent and caused more confusion. Whatever the intentions behind this misleading assessment, we now know that Iran, with some of its international supporters, used the opportunity to derail the diplomatic process and move ahead with its uranium enrichment. Iran is now on the verge of producing enough highly enriched uranium for one to three nuclear weapons a year.

This is not good news. Diplomacy, and more serious sanctions, keep military action at bay. A lack of options is what forces nations to make military choices.

I raise these points not to criticize the administration, advocate for one action course of action over another, or argue about the results of the recent NIE. I raise these points because our Nation cannot afford confusion about the threat at hand. We have underestimated our adversaries in the past, and missed important developments even in friendly nations. Saddam Hussein developed nuclear weapons while receiving U.S. aid. India detonated a nuclear device before the U.S. had any advance warning. More recently, Syria procured a nuclear reactor as the United States negotiated in good faith with its suppliers in North Korea.

We need to get this right. A mistake, a botched timeline, a missed event, a faulty analysis—all or any of the above could result in the worst of all possible outcomes. It is for that reason, that I rise today to introduce the legislation to help us better assess the nuclear threat from Iran. This legislation will create an independent commission comprised of 12 private U.S. citizens with expertise in nuclear proliferation and experience on the question of Iran. They will be appointed by the Speaker of the House, the House Minority Leader, and the Senate Minority Leader. Together, they will lend their expertise on this critical issue.

There is a venerable history to such bipartisan commissions, including the 9/11 Commission, the Commission to Assess the Ballistic Missile Threat to the United States, and the Commission on the Intelligence Capabilities of the United States. A commission can provide a set of fresh eyes to look without bias at the information at hand and make assessments upon which the American people and American policymakers can rely.

Perhaps there are some among my colleagues or in the bureaucracy of the executive branch who believe that they need no help, and that such a commission is not necessary. To them, I suggest a brief review of history. Let us rely on the best our Nation has to offer, and bring bipartisan, fresh expertise to the question of the Iranian threat.

I urge my colleagues to support me in this effort.

By Mr. BOND:

S. 3581. A bill to establish a Federal Mortgage Origination Commission, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. BOND. Mr. President, today I am introducing a bill that goes to the heart of one of the major problems in our loan operations. We have had a system develop where no longer are loans just made available by the State-regulated banks and thrifts. Too many loan offers come over the Internet or by fax. I have not been able to develop a good enough screening program on my computer to keep them out. I know what kinds of solicitations are being made. They are being made by unregulated entities, people not subject to any regulation. As we say back home: We regulate the bricks but not the clicks. We regulate the banks and the savings and loans but not the people who offer you loans too good to be true by fax or Internet.

Congress has already taken some steps to address the mortgage origination problem by developing a mortgage licensing and registry system through the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and protecting consumers by requiring greater mortgage loan disclosure requirements. In addition, I have worked with Senator DODD, last year and this year, to include more housing counseling funding to assist homeowners. I strongly believe the Mortgage Origination Commission, proposed by the Secretary of the Treasury, is an important element to complement these efforts.

As many of us know, the root cause of the current financial crisis is traced

to the breakdowns in the mortgage market, led by the high level of failures in subprime mortgages. These failures occurred due to many reasons, but one major reason was the loophole in the Government's oversight and regulatory system for mortgage origination. Specifically, many mortgage brokers with no or uneven regulatory oversight originated a substantial number of all housing mortgages and over half of all subprime mortgages.

To help close regulatory loopholes in mortgage origination, my bill contains the key components recommended by the Treasury.

First, this legislation creates a new Federal oversight entity called the Mortgage Origination Commission. The Commission would be led by a Presidentially appointed Director for a 5-year term who would chair a seven-member board comprised of the Federal Government's key financial regulators: the Federal Reserve, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Conference of State Bank Supervisors.

Second, the Commission would be empowered to develop uniform minimum licensing qualification standards for State mortgage market participants. As laid out in the bill, these standards would include personal conduct and disciplinary history, minimum educational requirements, testing criteria and procedures, and appropriate license revocation standards. The Commission would also evaluate, rate, and report on the adequacy of each State's system for licensing and regulation.

The bill retains State-level regulation of the mortgage origination process, but the new Federal Mortgage Origination Commission would ensure that the States have adequate protections in place and improve transparency in the mortgage origination process by providing information on the strength of each State's standards. The Commission will also provide transparency in the securities market by providing evaluations and ratings on mortgages.

Finally, the bill clarifies the Federal Government's enforcement and examination responsibilities over mortgage origination companies. Specifically, the Federal Reserve and the Office of Thrift Supervision would have clear authority over mortgage originators that are affiliates of depository institutions with a federally regulated holding company. States would have clear authority to enforce Federal mortgage laws governing mortgage transactions involving mortgage originators.

In formulating this legislation, my goal was to develop a proposal to provide more effective regulation, transparency, and oversight in a streamlined manner. This bill enhances the current structure without creating a major new Federal entity. If enacted, the Commission could be up and running in a relatively short time.

As I said, the legislation mirrors the Secretary of Treasury's proposal, and it is intended to be part of the overall response. I look forward to working with my colleagues to achieve this. I know time is running short. I hope they will carefully consider this proposal and perhaps include it in the bill coming to us or in separate legislation.

By Mr. BINGAMAN:

S. 3584. A bill to comprehensively prevent, treat, and decrease overweight and obesity in our Nation's populations; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Obesity Prevention, Treatment and Research Act of 2008. This legislation creates unprecedented collaborations and collective across agencies, and among private and public entities, individuals, and communities.

The very high prevalence of individuals who are obese or overweight has resulted in an epidemic in the United States, affecting over 66 percent of adults and 32 percent of children according to the CDC's National Center for Health Statistics. Over the last 30 years, the obesity rate has more than doubled in all ages. The United States now has the highest prevalence of obesity among the developed nations. In fact, the prevalence of obesity in U.S. in 2006, 34 percent is more than twice the average for other developed nations, 13 percent. The prevalence of obesity in the next closest country, the United Kingdom, is over 25 percent less than that of the U.S.

The Obesity Prevention, Treatment and Research Act of 2008 comprehensively addresses the obesity and overweight epidemic by focusing on coordinating and augmenting existing prevention and treatment activities. The legislation is based on the extensive work on obesity of the Institutes of Medicine, IOM, over the last few years.

The legislation focuses on developing dynamic new collaborations and collective actions, which IOM recommends as essential to successfully addressing the problems of obese and overweight individuals throughout the nation. In addition, the legislation focuses on supporting interventions that will improve access to obesity prevention and treatment services in our federal healthcare programs in recognition that the high prevalence of overweight and obese individuals dramatically increases the costs in Medicare, Medicaid, SCHIP, and other public and private health insurance programs.

I note that interventions aimed at significantly decreasing the prevalence of these illnesses are extremely cost effective and are critical to overall disease prevention and health promotion efforts. The Trust for America's Health recently reported that an investment of just $10 per person per year in proven community based disease prevention programs would yield a $2.8 billion annual health expenditure reduction. Put another way, our nation would recoup nearly $1 over and above the cost of a comprehensive disease prevention and health promotion program for every $1 invested in the first 1 to 2 years of the program.

The Obesity Prevention, Treatment and Research Act of 2008 establishes the United States Council on Overweight & Obesity Prevention, USCO–OP, which is charged with creating a comprehensive strategy to prevent, treat and reduce the prevalence of overweight individuals and obesity. This advisory council will update Federal guidelines, identify best practices, conduct ongoing surveillance and monitoring of existing Federal programs, and make recommendations to coordinate budgets, policies and programs across Federal agencies in collaboration with private and public partners. In addition, the Council will provide guidance to the Federal Government for a new series of grant programs established by the legislation to combat obesity and the high prevalence of overweight individuals.

It is important to note that in July the Journal of the American Medical Association reported that physical activity levels drop sharply as children age. Children should be engaging in 60 minutes of moderate to vigorous physical activity most days of the week. While 90 percent of children met the recommended activity at age 9, by age 15 only 31 percent met the level on weekdays, and only 17 percent on weekends. Moreover, these behaviors become worse as they get older. I find these trends very disturbing.

In addition, experts tell us that Americans want and need better and more accessible information about healthier foods, beverages and exercise programs. The Council will help develop and update the daily physical activity requirements in our schools, and identify activities that families can do together, involving parents and their children throughout the week, and as lifelong participants.

My legislation also creates grant programs to provide funding to schools, community health centers, academic institutions, state medical societies, state health departments, and communities to reduce the prevalence and improve the prevention and treatment of individuals that are obese or overweight.

It is also critical to point out that certain populations are more vulnerable than others to the obesity and overweight epidemic. In my home state of New Mexico, for example, the consequences are devastating. 74 percent of Native American adults in New Mexico are overweight or obese, as are 38 percent of Native American High School students. I take steps in this legislation to address populations more severely impacted by the obesity and overweight epidemic, including: prioritizing grants to these populations

and requiring Federal reporting on research and data related to obesity in these populations.

The legislation also doubles existing funding levels for the Department of Agriculture's Fresh Foods and Vegetables program to levels that will assure that most low-income children will have access to these foods within their schools.

The legislation also requires the Secretary of Health and Human Services and the Secretary of Agriculture to consult with USCO–OP to update and reform Federal oversight of food and beverage labeling. Such reforms include improving the transparency of labeling with regard to nutritional and caloric value of food and beverages. These updates and reforms are critical. Research suggests that high-energy dense foods that are low in nutrients represent 30 percent of the average American total calorie intake. Research also suggests that these foods don't trigger the brain's normal pathways and responses to let the body know that it is full.

My legislation also amends the Social Security Act to expand access to medical nutrition therapy and exercise counseling when determined cost effective by the Secretary of Health and Human Services. We have to figure out a way to prevent the development of end stages of morbid obesity, such as kidney failure, heart failure and disability from arthritis and other problems. My bill seeks to invest our Federal dollar more wisely. This is truly the case where an ounce of prevention is worth a pound of cure.

I would like to thank Dr. Dan Derksen, who served as a Robert Wood Johnson Health Policy Fellow in my office this year, for his great work in developing this legislation. In addition, I would like to thank the Institutes of Medicine, the Campaign to End Obesity, and First Focus for their assistance in developing this legislation.

The legislation has received the endorsement of: the Campaign to End Obesity, American College of Gastroenterology, First Focus, Shaping America's Health, YMCA of the USA, the National Coalition for Promoting Physical Activity, the Sporting Goods Manufacturers of America, and the New Mexico Medical Society.

I urge my other Senate colleagues to join in supporting this critical legislation.

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

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

S. 3584

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 ''Obesity Prevention, Treatment, and Research Act of 2008''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 2001, the United States Surgeon General released the Call to Action to Prevent and Decrease Overweight and Obesity to bring attention to the public health problems related to obesity.

(2) Since the Surgeon General's call to action, the problems of obesity and overweight have become epidemic, occurring in all ages, ethnicities and races, and individuals in every State.

(3) The United States now has the highest prevalence of obesity among the developed nations, according to 2006 data by the Organisation for Economic Co-operation and Development. The prevalence of obesity in the United States (34 percent) is more than twice the average for other developed nations (13 percent). The closest nation in prevalence of obesity is the United Kingdom (24 percent) which is over 25 percent less than the United States.

(4) The National Health and Nutrition Examination Survey in 2006 estimated that 32 percent of children and adolescents aged 2 to 19 and an alarming 66 percent of adults are overweight or obese.

(5) More than 30 percent of young people in grades 9 through 12 do not regularly engage in vigorous intensity physical activity, while almost 40 percent of adults are sedentary and 70 percent report getting less than 20 minutes of regular physical activity per day.

(6) The Institute of Medicine, in their 2005 publication ''Preventing Childhood Obesity: Health in the Balance'', reported that over the last 3 decades, the rate of childhood obesity has tripled for children aged 6 to 11 years, and doubled for children aged 2 to 5 years old and in adolescents aged 12 to 19 years old. In 2004, approximately 9,000,000 children over 6 years of age were obese. Only 2 percent of children eat a healthy diet consistent with Federal nutrition guidelines.

(7) For children born in 2000, it is estimated the lifetime risk of being diagnosed with type 2 diabetes is 40 percent for females and 30 percent for males.

(8) Overweight and obesity disproportionately affect minority populations and women. According to the 2006 Behavioral Risk Factor Surveillance System of the Centers for the Disease Control and Prevention, 61 percent of adults in the United States are overweight or obese.

(9) The Centers for the Disease Control and Prevention estimates the annual expenditures related to overweight and obesity in the United States to be $117,000,000,000 in 2001 and rising rapidly.

(10) The Centers for the Disease Control and Prevention estimates that the increase in the number of overweight and obese Americans between 1987 and 2001 resulted in a 27 percent increase in per capita health costs, and that as many as 112,000 deaths per year are associated with obesity.

(11) Being overweight or obese increases the risk of chronic diseases including diabetes, heart disease, stroke, certain cancers, arthritis, and other health problems.

(12) According to the National Institute of Diabetes and Digestive and Kidney Diseases, individuals who are obese have a 50 to 100 percent increased risk of premature death.

(13) Healthy People 2010 goals identify overweight and obesity as 1 of the Nation's leading health problems and include objectives for increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(14) Another Healthy People 2010 goal is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionally impacts medically underserved populations.

(15) Food and beverage advertisers are estimated to spend $10,000,000 to $12,000,000,000 per year to target children and youth.

(16) The United States spends less than 2 percent of its annual health expenditures on prevention.

(17) Employer health promotion investments net a return of $3 for every $1 invested.

(18) High-energy dense and low-nutrient dense foods represent 30 percent of American's total calorie intake. Fast food company menus are twice the energy density of recommended healthful diets.

(19) Research suggests that individuals eat too much high-energy dense foods without feeling full because the brain's pathways that regulate hunger and influence normal food intake are not triggered by these foods.

(20) Packaging, product placement, and high-energy dense food content manipulation contribute to the overweight and obesity epidemic in the United States.

(21) Such marketing and content manipulation techniques have been used by other industries to encourage consumption at the expense of health. To help individuals make healthy choices, education and information must be available with clear, consistent, and accurate labeling.

TITLE I—OBESITY TREATMENT, PREVENTION, AND REDUCTION

SEC. 101. UNITED STATES COUNCIL ON OVERWEIGHT-OBESITY PREVENTION.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

''SEC. 399R. UNITED STATES COUNCIL ON OVERWEIGHT-OBESITY PREVENTION.

''(a) ESTABLISHMENT.—The Secretary shall convene a United States Council on Overweight-Obesity Prevention (referred to in this section as 'USCO-OP').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—USCO-OP shall be composed of 20 members, which shall consist of—

''(A) the Secretary;

''(B) the Secretary (or his or her designee) of—

''(i) the Department of Agriculture;

''(ii) the Department of Education;

''(iii) the Department of Housing and Urban Development;

''(iv) the Department of the Interior

''(v) the Federal Trade Commission;

''(vi) the Department of Transportation; and

''(vii) any other Federal agency that the Secretary of Health and Human Services determines appropriate;

''(C) the Chairman (or his or her designee) of the Federal Communications Commission;

''(D) the Director (or his or her designee) of the Centers for Disease Control and Prevention, the National Institutes of Health, and the Agency for Healthcare Research and Quality;

''(E) the Administrator of the Centers for Medicare and Medicaid Services (or his or her designee);

''(F) the Commissioner of Food and Drugs (or his or her designee); and

''(G) a minimum of 5 representatives, appointed by the Secretary, of expert organizations such as public health associations, key healthcare provider groups, planning and development organizations, education associations, advocacy groups, relevant industries, State and local leadership, and other entities as determined appropriate by the Secretary.

''(2) APPOINTMENTS.—The Secretary shall accept nominations for representation on USCO-OP through public comment before the initial appointment of members of USCO-OP under paragraph (1)(G), and on a regular basis for open positions thereafter, but not less than every 2 years.

''(3) CHAIRPERSON.—The chairperson of USCO-OP shall be—

''(A) an individual appointed by the President; and

''(B) until the date that an individual is appointed under subparagraph (A), the Secretary.

''(c) MEETINGS.—

''(1) IN GENERAL.—USCO-OP shall meet—

''(A) not later than 180 days after the date of enactment of the Obesity Prevention, Treatment, and Research Act of 2008; and

''(B) at the call of the chairperson thereafter, but in no case less often than 2 times per year.

''(2) MEETINGS OF FEDERAL AGENCIES.—The representatives of the Federal agencies on USCO-OP shall meet on a regular basis, as determined by the Secretary, to develop strategies to coordinate budgets and discuss other issues that are not otherwise permitted to be discussed in a public forum. The purpose of such meetings shall be to allow more rapid interagency strategic planning and intervention implementation to address the overweight and obesity epidemic.

''(d) DUTIES OF USCO-OP.—USCO-OP shall—

''(1) develop strategies to comprehensively prevent, treat, and reduce overweight and obesity;

''(2) coordinate interagency cooperation and action related to the prevention, treatment, and reduction of overweight and obesity in the United States;

''(3) identify best practices in communities to address overweight and obesity;

''(4) work with appropriate entities to evaluate the effectiveness of obesity and overweight interventions;

''(5) update the National Institutes of Health 1998 'Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults: The Evidence Report' and include sections on childhood obesity in such updated report;

''(6) conduct ongoing surveillance and monitoring using tools such as the National Health and Nutrition Examination Survey and the Behavioral Risk Factor Surveillance System and assure adequate and consistent funding to support data collection and analysis to inform policy;

''(7) make recommendations to coordinate budgets, grant and pilot programs, policies, and programs across Federal agencies to cohesively address overweight and obesity, including with respect to the grant programs carried out under sections 306(n), 399S, and 1904(a)(1)(H);

''(8) make recommendations to update and improve the daily physical activity requirements for students under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and include recommendations about physical activities that families can do together, and involving parents in these activities;

''(9) make recommendations about coverage for obesity-related services and for an early and periodic screening, diagnostic, and treatment services program under the State Children's Health Insurance Program established under title XXI of the Social Security Act; and

''(10) provide guidelines for childhood obesity health care related treatment under the early and periodic screening, diagnostic, and treatment services program under the Medicaid program established under title XIX of the Social Security Act and otherwise described in section 2103(c)(5) of such Act.

''(e) REPORT.—Not later than 18 months after the date of enactment of the Obesity Prevention, Treatment, and Research Act of 2008, and on an annual basis thereafter, USCO-OP shall submit to the President and to the relevant committees of Congress, a report that—

''(1) summarizes the activities and efforts of USCO-OP under this section to coordinate interagency prevention, treatment, and reduction of obesity and overweight, including a detailed strategic plan with recommendations for each Federal agency;

''(2) evaluates the effectiveness of these coordinated interventions and conducts interim assessments and reporting of health outcomes, achievement of milestones, and implementation of strategic plan goals starting with the second report, and yearly thereafter; and

''(3) makes recommendations for the following year's strategic plan based on data and findings from the previous year.

''(f) TECHNICAL ASSISTANCE.—The Department of Health and Human Services may provide technical assistance to USCO-OP to carry out the activities under this section.

''(g) PERMANENCE OF COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to USCO-OP.''.

SEC. 102. GRANTS AND DEMONSTRATION PROGRAMS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN POPULATIONS DISPROPORTIONATELY AFFECTED BY OBESITY AND OVERWEIGHT.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 101, is amended by adding at the end the following:

''SEC. 399S. GRANTS AND DEMONSTRATION PROGRAMS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN POPULATIONS DISPROPORTIONATELY AFFECTED BY OBESITY AND OVERWEIGHT.

''(a) ELIGIBLE ENTITY.—For purposes of this section, the term 'eligible entity' means—

''(1) a city, county, Indian tribe, tribal organization, territory, or State;

''(2) a local, tribal, or State educational agency;

''(3) a Federal medical facility, including a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act), an Indian Health Service hospital or clinic, any health facility or program operated by or pursuant to a contractor grant from the Indian Health Service, an Indian Health Service entity, an urban Indian center, an Indian tribal clinic, a health care for the homeless center, a rural health center, migrant health center, and any other Federal medical facility;

''(4) any entity meeting the criteria for medical home under section 204 of the Tax Relief and Health Care Act of 2006 (Public Law 109–432);

''(5) a nonprofit organization (such as an academic health center or community health center);

''(6) a health department;

''(7) any licensed or certified health provider;

''(8) an accredited university or college;

''(9) a community-based organization;

''(10) a local city planning agency; and

''(11) any other entity determined appropriate by the Secretary.

''(b) APPLICATION.—An eligible entity that desires a grant under this section shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of any training that will be provided under such grant.

''(c) GRANT DEMONSTRATION AND PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in consultation with the United States Council on Overweight-Obesity Prevention under section 399R, shall establish and evaluate a grant demonstration and pilot program for entities to—

''(A) prevent, treat, or otherwise reduce overweight and obesity;

''(B) increase the number of children and adults who safely walk or bike to school or work;

''(C) increase the availability and affordability of fresh fruits and vegetables in the community;

''(D) expand safe and accessible walking paths and recreational facilities to encourage physical activity, and other interventions to create healthy communities;

''(E) create advertising, social marketing, and public health campaigns promoting healthier food choices, increased physical activity, and healthier lifestyles targeted to individuals and to families;

''(F) promote increased rates and duration of breastfeeding; and

''(G) increase worksite and employer promotion of and involvement in community initiatives that prevent, treat, or otherwise reduce overweight and obesity.

''(2) SPECIAL PRIORITY.—Special priority will be given to grant proposals that target communities or populations disproportionately affected by overweight or obesity, including Native Americans, other minorities, and women.

''(d) GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN POPULATIONS DISPROPORTIONATELY AFFECTED BY OBESITY AND OVERWEIGHT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may award grants to eligible entities to promote health behaviors for women and children in target populations, especially racial and ethnic minority populations in medically underserved communities.

''(2) USE OF FUNDS.—An award under this section shall be used to carry out any of the following:

''(A) To educate, promote, prevent, treat and determine best practices in overweight and obese populations.

''(B) To address behavioral risk factors including sedentary lifestyle, poor nutrition, being overweight or obese, and use of tobacco, alcohol or other substances that increase the risk of morbidity and mortality. Special priority will be given to grant applications that—

''(i) propose interventions that address embedded levels of influence on behavior, including the individual, family, peers, community and society; and

''(ii) utilize techniques that promote community involvement in the design and implementation of interventions including community diagnosis and community-based participatory research.

''(C) To develop and implement interventions to promote a balance of energy consumption and expenditure, to attain healthier weight, prevent obesity, and reduce morbidity and mortality associated with overweight and obesity.

''(D)(i) To train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

''(ii) To use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

''(I) how to treat or prevent obesity, being overweight, and eating disorders;

''(II) the link between obesity, being overweight, eating disorders and related serious and chronic medical conditions;

''(III) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

''(IV) how to identify overweight, obese, individuals with eating disorders, and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions; and

''(V) how to conduct a comprehensive assessment of individual and familial health risk factors and evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.

''(iii) In awarding a grant to carry out an activity under this subparagraph, preference shall be given to an entity described in subsection (a)(4).

''(e) REPORTING TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Director of the Centers for Disease Control and Prevention shall submit to the Secretary and Congress a report concerning the result of the activities conducted through the grants awarded under this section.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2009, and such sums as may be necessary for each of fiscal years 2010 through 2012.''.

SEC. 103. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (m)(4)(B), by striking ''subsection (n)'' each place it appears and inserting ''subsection (o)'';

(2) by redesignating subsection (n) as subsection (o); and

(3) by inserting after subsection (m) the following:

''(n)(1) The Secretary, acting through the Center, may provide for the—

''(A) collection of data for determining the fitness levels and energy expenditure of adults, children, and youth; and

''(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

''(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

''(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.''.

SEC. 104. HEALTH DISPARITIES REPORT.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities carried out under this Act (and the amendments made by this Act) and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a–1(c)(3)).

SEC. 105. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w–3(a)(1)) is amended by adding at the end the following:

''(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.''.

SEC. 106. REPORT ON OBESITY AND EATING DISORDERS RESEARCH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications (including mental health implications) of being overweight, obesity, and eating disorders.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes, prevention, and treatment of, being overweight, obesity, and eating disorders; and

(3) recommendations on further research that is needed, including research among diverse populations, the plan of the Department of Health and Human Services for conducting such research, and how current knowledge can be disseminated.

TITLE II—FOOD AND BEVERAGE LABELING FOR HEALTHY CHOICES

SEC. 201. FOOD AND BEVERAGE LABELING FOR HEALTHY CHOICES.

(a) USCO-OP.—In this section, the term ''USCO-OP'' means the United States Council on Overweight-Obesity Prevention under section 399R of the Public Health Service Act (as added by section 101).

(b) REFORM OF FOOD AND BEVERAGE LABELING.—The Secretary of Health and Human Services and the Secretary of Agriculture, in consultation with the USCO-OP, shall, through regulation or other appropriate action, update and reform Federal oversight of food and beverage labeling. Such reform shall include improving the transparency of such labeling with regard to nutritional and caloric value of food and beverages.

TITLE III—HEALTHY CHOICES FOOD AND BEVERAGE PROGRAMS

SEC. 301. FRESH FRUIT AND VEGETABLE PROGRAM.

Section 19(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769a(i)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8); and

(2) by inserting after paragraph (2) the following:

''(3) ADDITIONAL MANDATORY FUNDING.—

''(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out and expand the program under this section, to remain available until expended—

''(i) on October 1, 2008, $80,000,000;

''(ii) on July 1, 2009, $130,000,000;

''(iii) on July 1, 2010, $202,000,000;

''(iv) on July 1, 2011, $300,000,000; and

''(v) on July 1, 2012, and on each July 1 thereafter, the amount made available for the previous fiscal year, as adjusted under subparagraph (B).

''(B) ADJUSTMENT.—On July 1, 2012, and on each July 1 thereafter the amount made available under subparagraph (A)(v) shall be calculated by adjusting the amount made available for the previous fiscal year to reflect changes in the Consumer Price Index of the Bureau of Labor Statistics for fresh fruits and vegetables, with the adjustment—

''(i) rounded down to the nearest dollar increment; and

''(ii) based on the unrounded amounts for the preceding 12-month period.

''(C) ALLOCATION.—Funds made available under this paragraph shall be allocated among the States and the District of Columbia in the same manner as funds made available under paragraph (1).''.

TITLE IV—AMENDMENTS TO THE SOCIAL SECURITY ACT

SEC. 401. COVERAGE OF EVIDENCE-BASED PREVENTIVE SERVICES UNDER MEDICARE, MEDICAID, AND SCHIP.

(a) MEDICARE.—Section 1861(ddd) of the Social Security Act, as added by section 101 of the Medicare Improvements for Patients and Providers Act of 2008, is amended—

(1) in paragraph (2), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (3)''; and

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

''(3) The term 'additional preventive services' includes any evidence-based preventive services which the Secretary has determined are reasonable and necessary, including, as so determined, smoking cessation and prevention services, diet and exercise counseling, and healthy weight and obesity counseling.''.

(b) STATE OPTION TO PROVIDE MEDICAL ASSISTANCE FOR EVIDENCE-BASED PREVENTIVE SERVICES.—

(1) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(A) in subsection (a)—

(i) in paragraph (27), by striking ''and'' at the end;

(ii) by redesignating paragraph (28) as paragraph (29); and

(iii) by inserting after paragraph (27) the following:

''(28) evidence-based preventive services described in subsection (y); and''; and

(B) by adding at the end the following:

''(y)(1) For purposes of subsection (a)(28), evidence-based preventive services described in this subsection are any preventive services which the Secretary has determined are reasonable and necessary through the process for making national coverage determinations (as defined in section 1869(f)(1)(B)) under title XVIII, including, as so determined, smoking cessation and prevention services, diet and exercise counseling, and healthy weight and obesity counseling.''.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of such Act is amended by inserting ''and (28)'' after ''(24)''.

(c) STATE OPTION TO PROVIDE CHILD HEALTH ASSISTANCE FOR EVIDENCE-BASED PREVENTIVE SERVICES.—Section 2110(a) of the Social Security Act (42 U.S.C. 1397jj(a)) is amended—

(1) by redesignating paragraph (28) as paragraph (29); and

(2) by inserting after paragraph (27) the following:

''(28) Evidence-based preventive services described in section 1905(y).''.

SEC. 402. COVERAGE OF MEDICAL NUTRITION COUNSELING UNDER MEDICARE, MEDICAID, AND SCHIP.

(a) MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES FOR PEOPLE WITH PRE-DIABETES.—Section 1861(s)(2)(V) of the Social Security Act (42 U.S.C. 1395x(s)(2)(V)) is amended by inserting after ''beneficiary with diabetes'' the following '', pre-diabetes or its risk factors (including hypertension, dyslipidemia, obesity, or overweight),''.

(b) STATE OPTION TO PROVIDE MEDICAL ASSISTANCE FOR MEDICAL THERAPY SERVICES.—

(1) IN GENERAL.—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d), as amended by section 401(b), is amended—

(A) in paragraph (28), by striking ''and'' at the end;

(B) by redesignating paragraph (29) as paragraph (30); and

(C) by inserting after paragraph (28) the following:

''(29) medical nutrition therapy services (as defined in section 1861(vv)(1)) for individuals with pre-diabetes or obesity, or who are overweight (as defined by the Secretary); and''.

(2) CONFORMING AMENDMENT.—Section 1902(a)(10)(C)(iv) of such Act, as amended by section 401(b)(2), is amended by striking ''and (28)'' and inserting '', (28) and (29)''.

(c) STATE OPTION TO PROVIDE CHILD HEALTH ASSISTANCE FOR MEDICAL NUTRITION THERAPY SERVICES.—Section 2110(a) of the Social Security Act (42 U.S.C. 1397jj(a)), as amended by section 401(c), is amended—

(1) by redesignating paragraph (29) as paragraph (30); and

(2) by inserting after paragraph (28) the following:

''(29) Medical nutrition therapy services (as defined in section 1861(vv)(1)) for individuals with pre-diabetes or obesity, or who are overweight (as defined by the Secretary).''.

SEC. 403. AUTHORIZING EXPANSION OF MEDICARE COVERAGE OF MEDICAL NUTRITION THERAPY SERVICES.

(a) AUTHORIZING EXPANDED ELIGIBLE POPULATION.—Section 1861(s)(2)(V) of the Social Security Act (42 U.S.C. 1395x(s)(2)(V)), as amended by section 402, is amended—

(1) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and indenting each such clause an additional 2 ems;

(2) by striking ''in the case of a beneficiary with diabetes, pre-diabetes or its risk factors (including hypertension, dyslipidemia, obesity, overweight), or a renal disease who—'' and inserting ''in the case of a beneficiary—

''(i) with diabetes, pre-diabetes or its risk factors (including hypertension, dyslipidemia, obesity, overweight), or a renal disease who—'';

(3) by adding ''or'' at the end of subclause (III) of clause (i), as so redesignated; and

(4) by adding at the end the following new clause:

''(ii) who is not described in clause (i) but who has another disease, condition, or disorder for which the Secretary has made a national coverage determination (as defined in section 1869(f)(1)(B)) for the coverage of such services;''.

(b) COVERAGE OF SERVICES FURNISHED BY PHYSICIANS.—Section 1861(vv)(1) of the Social Security Act (42 U.S.C. 1395x(vv)(1)) is amended by inserting ''or which are furnished by a physician'' before the period at the end.

(c) NATIONAL COVERAGE DETERMINATION PROCESS.—In making a national coverage determination described in section 1861(s)(2)(V)(ii) of the Social Security Act, as added by subsection (a)(4), the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services, shall—

(1) consult with dietetic and nutrition professional organizations in determining appropriate protocols for coverage of medical nutrition therapy services for individuals with different diseases, conditions, and disorders; and

(2) consider the degree to which medical nutrition therapy interventions prevent or help prevent the onset or progression of more serious diseases, conditions, or disorders.

SEC. 404. CLARIFICATION OF EPSDT INCLUSION OF PREVENTION, SCREENING, AND TREATMENT SERVICES FOR OBESITY AND OVERWEIGHT; SCHIP COVERAGE.

(a) IN GENERAL.—Section 1905(r)(5) of the Social Security Act (42 U.S.C. 1396d(r)(5)) is amended by inserting '', including weight and BMI measurement and monitoring, as well as appropriate treatment services (including but not limited to) medical nutrition therapy services (as defined in section 1861(vv)(1)), physical therapy or exercise training, and behavioral health counseling, based on recommendations of the United States Council on Overweight-Obesity Prevention under section 399R of the Public Health Service Act and such other expert recommendations and studies as determined by the Secretary'' before the period.

(b) SCHIP.—

(1) REQUIRED COVERAGE.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a), in the matter before paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (7) of subsection (c)''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (7); and

(ii) by inserting after paragraph (4), the following:

''(5) PREVENTION, SCREENING, AND TREATMENT SERVICES FOR OBESITY AND OVERWEIGHT.—The child health assistance provided to a targeted low-income child shall include coverage of weight and BMI measurement and monitoring, as well as appropriate treatment services (including but not limited to) medical nutrition therapy services (as defined in section 1861(vv)(1)), physical therapy or exercise training, and behavioral health counseling, based on recommendations of the United States Council on Overweight-Obesity Prevention under section 399R of the Public Health Service Act and such other expert recommendations and studies as determined by the Secretary.''.

(2) CONFORMING AMENDMENT.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(c)(2)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

SEC. 405. INCLUSION OF PREVENTIVE SERVICES IN QUALITY MATERNAL AND CHILD HEALTH SERVICES.

Section 501(b) of the Social Security Act (42 U.S.C. 701(b)) is amended by adding at the end the following new paragraph:

''(5) The term 'quality maternal and child health services' includes the following:

''(A) Evidence-based preventive services described in section 1905(y).

''(B) Medical nutrition counseling for individuals with pre-diabetes or obesity, or who are overweight (as defined by the Secretary).

''(C) Weight and BMI measurement and monitoring, as well as appropriate treatment services (including but not limited to) medical nutrition therapy services (as defined in section 1861(vv)(1)), physical therapy or exercise training, and behavioral health counseling, based on recommendations of the United States Council on Overweight-Obesity Prevention under section 399R of the Public Health Service Act and such other expert recommendations and studies as determined by the Secretary.''.

SEC. 406. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title take effect on October 1, 2009.

(b) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

By Mr. REID:

S. 3590. A bill to provide grants for use by rural local educational agencies in purchasing new school buses; to the Committee on Commerce, Science, and Transportation.

Mr. REID. Mr. President, many years ago, when I attended school in Searchlight, I walked to school. When it was time for high school, I hitched a ride into a town 40 miles away and had to stay with family during the week. There weren't many options back then. That was how many kids got to school in rural Nevada—walk or hitchhike.

Now, of course, in both urban and rural America, most children take school buses to school.

Unfortunately, rural school districts across America are strapped. They can't afford to buy newer, safer buses. With gas near $4 a gallon, their budgets have been stretched to the limits. As a result, many rural areas have no choice but to operate outdated, unsafe school buses for as long as they can pass inspection.

Over the years, I have met several times with the school superintendents in my State—all 17 of them. While each district has their own unique challenges, they all have an urgent need for safe and reliable school buses.

In some rural Nevada counties, school buses must travel a million miles in a single school year. Last school year, the buses in one of Nevada's rural school districts traveled close to 5 million miles combined. I am fairly confident that many of my colleagues on both sides of the aisle would agree that the need for newer and safer school buses is not unique to Nevada's rural school districts.

From my meetings with our State's superintendents, it was clear that our school districts needed assistance. In the 108th and 109th Congresses, I introduced legislation to help these and other rural districts transport children to school in a way that is safe, affordable, and environmentally sound.

The Bus Utility and Safety in School Transportation Opportunity and Purchasing Act of 2008—or BUS STOP—allows school districts across rural America to be eligible for transit funding through the Department of Transportation, with the Federal Government contributing 75 percent of the cost.

Some may wonder why we need such a program when the Environmental

Protection Agency already has a cost-share grant program—the Clean School Bus USA program—to help school districts purchase new buses powered by natural gas or other alternative fuels.

Unfortunately, most of the rural districts in my State, and, I would imagine, across the country, cannot apply for these grants because they don't have the infrastructure in place to support this technology.

However, working in the spirit of a cleaner environment and healthy children, this bill will help rural school districts buy newer buses that are better for our air, and safer for our children.

There are many small, rural towns in America, like Searchlight, where kids travel to school in outdated buses. They deserve no less than safe, clean, economical buses to get them to school.

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

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

S. 3590

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 ''Bus Utility and Safety in School Transportation Opportunity and Purchasing Act of 2008''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) school transportation issues remain a concern for parents, State and local educational agencies, lawmakers, the National Highway Traffic Safety Administration, the National Transportation Safety Board, and the Environmental Protection Agency;

(2) many rural local educational agencies are operating outdated, unsafe school buses that are failing inspection, resulting in a depletion of the school bus fleets of the local educational agencies;

(3) many rural local educational agencies are unable to afford newer and safer buses;

(4) the rising cost of fuel has further strained the budgets of local educational agencies across the country; and

(5) millions of children face potential future health problems because of exposure to noxious fumes emitted from older school buses.

(b) PURPOSE.—The purpose of this Act is to establish within the Department of Transportation a Federal cost-sharing program to assist rural local educational agencies with older, unsafe school bus fleets in purchasing newer, safer school buses.

SEC. 3. DEFINITIONS.

In this Act:

(1) RURAL LOCAL EDUCATIONAL AGENCY.—The term ''rural local educational agency'' means a local educational agency, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), with respect to which—

(A) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile;

(B) all schools served by the local educational agency are designated with a school locale code of 7 or 8, as determined by the Secretary of Education; or

(C) all schools served by the local educational agency have been designated, by official action taken by the legislature of the State in which the local educational agency is located, as rural schools for purposes relating to the provision of educational services to students in the State.

(2) SCHOOL BUS.—The term ''school bus'' means a vehicle the primary purpose of which is to transport students to and from school or school activities.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 4. GRANT PROGRAM.

(a) IN GENERAL.—From amounts made available under section 5311(j) of title 49, United States Code, for a fiscal year, the Secretary, in consultation with the Secretary of Education, shall provide grants, on a competitive basis, to rural local educational agencies to pay the Federal share of the cost of purchasing new school buses.

(b) APPLICATION.—

(1) IN GENERAL.—Each rural local educational agency that seeks to receive a grant under this Act shall submit to the Secretary for approval an application at such time, in such manner, and accompanied by such information (in addition to information required under paragraph (2)) as the Secretary may require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

(A) documentation that, of the total number of school buses operated by the rural local educational agency, a majority of these buses entered service prior to 1998;

(B) documentation of the number of miles that each school bus operated by the rural local educational agency traveled in the most recent 9-month academic year;

(C) documentation that the rural local educational agency is operating with a strained fleet of school buses;

(D) a certification from the rural local educational agency that—

(i) authorizes the application of the rural local educational agency for a grant under this Act; and

(ii) describes the dedication of the rural local educational agency to school bus replacement programs and school transportation needs (including the number of new school buses needed by the rural local educational agency); and

(E) an assurance that the rural local educational agency or state educational agency will pay the non-Federal share of the cost of the purchase of new school buses under this Act from non-Federal sources.

(c) PRIORITY.—

(1) IN GENERAL.—In providing grants under this Act, the Secretary shall give priority to rural local educational agencies that, as determined by the Secretary—

(A) are transporting students in a bus manufactured before 1977;

(B) have a strained fleet of school buses; or

(C) serve a school that is required, under section 1116(b)(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(9)), to provide transportation to students to enable the students to transfer to another public school served by the rural local educational agency.

(d) PAYMENTS; FEDERAL SHARE.—

(1) PAYMENTS.—The Secretary shall pay to each rural local educational agency having an application approved under this section the Federal share described in paragraph (2) of the cost of purchasing such number of new school buses as is specified in the approved application.

(2) FEDERAL SHARE.—The Federal share of the cost of purchasing a new school bus under this Act shall be 75 percent.

(e) FORMULA GRANTS UNDER SAFETEA–LU.—Section 5311 of title 49, United States Code, is amended by inserting at the end the following:

''(j) RURAL SCHOOL TRANSPORTATION.—The Secretary may expand not to exceed 5 percent of amounts made available under this section to carry out the Bus Utility and Safety in School Transportation Opportunity and Purchasing Act of 2008.''.

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

S. 3595. A bill to direct the Secretary of the Interior to convey to the Nevada System of Higher Education certain Federal land located in Clark and Nye counties, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today with my good friend Senator ENSIGN to introduce the Southern Nevada Higher Education Land Act of 2008. This bill will expand opportunities for higher education in one of the Nation's fastest growing areas, southern Nevada.

In July 1862, President Abraham Lincoln signed the Land Grant College Act into law, creating a higher education legacy that continues to benefit our country today. That bill, now referred to as the Morrill Act, provided 30,000 acres of Federal land per Member of Congress to establish institutions of higher education in each State. Today, thanks in large part to the foresight of Senator Justin Smith Morrill from Vermont and others from his time, this Nation has one of the finest public university systems in the world.

Among the many universities established as a result of this forward-looking legislation was the University of Nevada. The State's first university was originally founded in Elko in 1874. Two years later, Nevada's State legislature voted to move the university to its current home in Reno. The University of Nevada remained the State's only higher education institution for 75 years.

From these humble beginnings, the State of Nevada has expanded its higher education system to now include two research universities, one State college, one research institution, and four community colleges. The Nevada System of Higher Education, which was formed in 1968 and encompasses all 8 institutions, has grown to serve roughly 98,000 degree-seeking students.

As the State of Nevada continues to grow, so too must its university system. With over 2 million residents in 2007, greater Las Vegas is the fourth-largest metropolitan area in the Mountain West. In this decade alone, the area's population has grown by 31 percent, 5 times faster than the Nation as a whole. By the year 2040, the area's population is projected to double to nearly 4.3 million residents. We must expand higher education opportunities to meet the demands of this growing region.

Consider the following—the University of Nevada, Las Vegas, with 28,000 students and 3,300 faculty and staff, is the fourth fastest-growing research university in the Nation. The College of Southern Nevada, also in Las Vegas, serves 39,000 students and its three

urban campuses are at near capacity. The town of Pahrump, 60 miles from Las Vegas in rural Nye County, has grown by 20 percent since 2000. Great Basin College's small branch campus in Pahrump uses high school classrooms at night to serve the city's 41,000 residents.

Our legislation will make selected parcels of Federal lands available for the future growth of the university system. Land will be provided for new campuses for the University of Nevada, Las Vegas; the College of Southern Nevada; and a Pahrump campus of Great Basin College. The current campuses for these three institutions comprise 1,150 acres in southern Nevada. With the passage of this legislation, an additional 2,400 acres will be available for new classroom, research, and residential facilities to help further the missions of these three fine institutions.

To establish these new campuses, three parcels of land would be conveyed from the Bureau of Land Management, BLM, to the Nevada System of Higher Education. Two of the parcels are located in Clark County, within the Southern Nevada Public Land Management Act, SNPLMA, disposal boundary. The third parcel is located in Pahrump, west of Las Vegas, in Nye County. BLM has designated all of these parcels for disposal because they are surrounded by development and are difficult to manage.

It is important to point out that the land our legislation conveys for the University of Nevada, Las Vegas, borders Nellis Air Force Base. Nellis was once on the outskirts of town, but now development is on its doorstep. In order to protect the mission of the Nellis Air Force base, we have put a special provision in the legislation requiring that the university system and Air Force sign a common agreement regarding development plans for the campus before any land is conveyed. The university system and the Air Force have been in conversations about this agreement for at least 2 years and seem to have found a middle ground that will serve the interests of both parties. We greatly appreciate the efforts of the university system and the Air Force to make this work.

This same land bordering Nellis was once used as a small arms range during World War II and will need to be cleaned up before it can be conveyed to the university system. Because it will take time to accomplish this, our legislation allows the land to be conveyed in phases, as the remediation is completed.

This proposal to expand higher education opportunities in southern Nevada has been welcomed by area leaders. City and county officials have worked closely with the Nevada System of Higher Education to plan the development of world-class facilities in their communities. These facilities are critical to meeting the challenge of diversifying their economies and attracting and growing knowledge industries in the area.

Just as the Morrill Act opened up Federal land to expand higher education across the Nation, I am hopeful that this important, though much more modest effort can do the same for the residents of southern Nevada. We look forward to working with Chairman BINGAMAN, Ranking Member DOMENICI and the other distinguished members of the Energy and Natural Resources Committee to move this legislation in an expeditious manner.

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

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

S. 3595

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 ''Southern Nevada Higher Education Land Act of 2008''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) southern Nevada is 1 of the fastest growing regions in the United States, with 750,000 new residents added since 2000 and 250,000 residents expected to be added by 2010;

(2) the Nevada System of Higher Education serves more than 70,000 undergraduate and graduate students in southern Nevada, with enrollment in the System expected to grow by 21 percent during the next 10 years, which would bring enrollment to a total of 85,000 students in the System;

(3) the Nevada System of Higher Education campuses in southern Nevada comprise 1,200 acres, 1 of the smallest land bases of any major higher education system in the western United States;

(4) the University of Nevada, Las Vegas, with 28,500 students and 3,300 faculty and staff, is the fourth fastest-growing research university in the United States;

(5) the College of Southern Nevada—

(A) serves 39,000 students each semester; and

(B) is near capacity at each of the 3 urban campuses of the College;

(6) Pahrump, located in rural Nye County, Nevada—

(A) has grown by 20 percent since 2000; and

(B) has a small satellite campus of Great Basin College to serve the 40,500 residents of Pahrump, Nevada; and

(7) the Nevada System of Higher Education needs additional land to provide for the future growth of the System, particularly for the University of Nevada, Las Vegas, the College of Southern Nevada, and the Pahrump campus of Great Basin College.

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

(1) to provide additional land for a thriving higher education system that serves the residents of fast-growing southern Nevada;

(2) to provide residents of the State with greater opportunities to pursue higher education and the resulting benefits, which include increased earnings, more employment opportunities, and better health; and

(3) to provide communities in southern Nevada the economic and societal values of higher education, including economic growth, lower crime rates, greater civic participation, and less reliance on social services.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD OF REGENTS.—The term ''Board of Regents'' means the Board of Regents of the Nevada System of Higher Education.

(2) CAMPUSES.—The term ''Campuses'' means the Great Basin College, College of Southern Nevada, and University of Las Vegas, Nevada, campuses.

(3) FEDERAL LAND.—The term ''Federal land'' means each of the 3 parcels of Bureau of Land Management land identified on the maps as ''Parcel to be Conveyed'', of which—

(A) approximately 40 acres is to be conveyed for the College of Southern Nevada;

(B) approximately 2,085 acres is to be conveyed for the University of Nevada, Las Vegas; and

(C) approximately 285 acres is to be conveyed for the Great Basin College.

(4) MAP.—The term ''Map'' means each of the 3 maps entitled ''Southern Nevada Higher Education Land Act'', dated July 11, 2008, and on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) STATE.—The term ''State'' means the State of Nevada.

(7) SYSTEM.—The term ''System'' means the Nevada System of Higher Education.

SEC. 4. CONVEYANCES OF FEDERAL LAND TO THE SYSTEM.

(a) CONVEYANCES.—

(1) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) and section 1(c) of the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869(c)) and subject to all valid existing rights, the Secretary shall—

(A) not later than 180 days after the date of enactment of this Act, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the Great Basin College and the College of Southern Nevada; and

(B) not later than 180 days after the receipt of certification of acceptable remediation of environmental conditions existing on the parcel to be conveyed for the University of Nevada, Las Vegas, convey to the System, without consideration, all right, title, and interest of the United States in and to the Federal land for the University of Nevada, Las Vegas.

(2) PHASES.—The Secretary may phase the conveyance of the Federal land under paragraph (1)(B) as remediation is completed.

(b) CONDITIONS.—

(1) IN GENERAL.—As a condition of the conveyance under subsection (a)(1), the Board of Regents shall agree in writing—

(A) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(B) to use the Federal land conveyed for educational and recreational purposes;

(C) to release and indemnify the United States from any claims or liabilities that may arise from uses carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(D) as soon as practicable after the date of the conveyance under subsection (a)(1), to erect at each of the Campuses an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of the citizens in the State; and

(E) to assist the Bureau of Land Management in providing information to the students of the System and the citizens of the State on—

(i) public land (including the management of public land) in the Nation; and

(ii) the role of the Bureau of Land Management in managing, preserving, and protecting the public land in the State.

(2) AGREEMENT WITH NELLIS AIR FORCE BASE.—As a condition of the conveyance of the Federal land for the University of Nevada, Las Vegas under subsection (a)(1)(B), the Board of Regents shall enter into a cooperative interlocal agreement with Nellis Air Force Base that is consistent with the missions of the System and the United States Air Force.

(c) USE OF FEDERAL LAND.—

(1) IN GENERAL.—The System may use the Federal land conveyed under subsection (a)(1) for—

(A) any purpose relating to the establishment, operation, growth, and maintenance of the System; and

(B) any uses relating to the purposes, including residential and commercial development that would generally be associated with an institution of higher education.

(2) OTHER ENTITIES.—The System may—

(A) consistent with Federal and State law, lease, or otherwise provide property or space at, the Campuses, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the System or to any community located in southern Nevada;

(B) allow any other communities in southern Nevada to use facilities of the Campuses for educational and recreational programs of the community; and

(C) in conjunction with the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County plan, finance (including through the provision of cost-share assistance), construct, and operate facilities for the city of Las Vegas, North Las Vegas, or Pahrump or Clark or Nye County on the Federal land conveyed for educational or recreational purposes consistent with this section.

(d) REVERSION.—

(1) IN GENERAL.—If the Federal land or any portion of the Federal land conveyed under subsection (a)(1) ceases to be used for the System, the Federal land, or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

(2) UNIVERSITY OF NEVADA, LAS VEGAS.—If the System fails to complete the first building or show progression toward development of the University of Nevada, Las Vegas campus on the applicable parcels of Federal land by the date that is 50 years after the date of receipt of certification of acceptable remediation of environmental conditions, the parcels of the Federal land described in section 3(3)(B) shall, at the discretion of the Secretary, revert to the United States.

By Mr. KERRY:

S. 3596. A bill to stabilize the small business lending market, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, over the past several days the Federal Government has been called upon to bail out some of America's largest financial companies. While I recognize that swift action must be taken to prevent the collapse of our Nation's major financial institutions, like many other Americans, I believe we also should come to the aid of our Nation's small businesses, which are also imperiled by this financial crisis.

Today the problems facing small firms and the banks that typically lend to them are not unlike those being faced by corporate America—firms simply cannot access the capital they need to keep their small businesses afloat in the wake of this economic crisis. Although the Small Business Administration's loan programs were designed to reach these marginalized borrowers, there is ample evidence that the programs are failing to do so at this critical juncture.

Last year, the SBA's 7(a) and 504 loan guarantee programs combined to provide over 100,000 American small businesses with essential financing, and they injected approximately $20 billion into our local businesses and communities. As a result of the financial crisis, 7(a) loans are down about 30 percent in terms of the number of loans made, and down about 11 percent in terms of dollars. Meanwhile, the number of 504 loans has decreased about 16 percent and they are down approximately 15 percent in terms of dollars loaned for fiscal year 2008. But these are more than just statistics; they are stark indications that the SBA's loan programs are not reaching enough of the small businesses that are now struggling to obtain affordable credit.

The recent drop in SBA lending paints a picture of small business borrowers and lenders caught in a vicious cycle driven by the financial crises of the past year. On the lender side of the equation, struggling banks have become so concerned with risk that they have virtually cut off conventional small business borrowing, even to well-qualified firms. On the borrower side, the banks' extremely tight lending practices are preventing loans—SBA loans in particular—from serving small businesses that need capital to survive the current economic crisis. That is why I am introducing the Small Business Lending Market Stabilization Act of 2008—which will jump start SBA lending, helping thousands of American small businesses receive the financing they need to survive the current financial crisis.

In April, as Chairman of the Senate Committee on Small Business and Entrepreneurship, I held a hearing to learn why the SBA loan programs were not reaching small businesses that were being squeezed out of the conventional loan markets by the credit crunch. Although the Administration refused to admit it at the time, virtually every other witness at the hearing told me that the SBA's increased fees played a significant role. The bill I have introduced today will address that problem by temporarily eliminating the fees that the SBA charges to borrowers, lenders, and ''Certified Development Companies'' for the 7(a) and 504 loan guarantee programs. This will immediately reduce the cost of capital for SBA borrowers. With lower monthly loan payments, more money will be placed into the hands of small business owners—money that will allow them to continue purchasing inventory and equipment. At the same time, the fee relief will also reduce the cost of lending for SBA's partners in the private sector, allowing them to make more small business loans through the programs.

The bill also includes several provisions that will expand the universe of small businesses that can access the SBA's loan programs. For instance, one measure will permit certain borrowers to refinance a limited amount of their preexisting debt through a new 504 loan. This adjustment will allow 504 loans to reach small business owners who want to refinance their company's existing debt, but have been turned down by conventional lenders.

The bill also contains measures that will give lenders greater flexibility in making SBA loans. One provision would allow the SBA to use ''weighted average rates'' when pooling loans for sale on the secondary market, making the secondary markets for SBA loans more efficient and improving liquidity among participating banks. Another provision would provide greater flexibility by directing the SBA to give lenders at least one alternative interest rate to the Wall Street prime rate, which will help reduce interest rate typically charged on 7(a) loans.

In short, the bill I am introducing today will provide much needed support for America's small businesses, helping them break free from the vicious cycle caused by the crisis in our financial markets. I will continue to work with my colleagues on both sides of the aisle to ensure that the massive Wall Street bailout proposal we have been asked to approve contains adequate protections for taxpayers. But I also urge my colleagues to join me in supporting this bill, which will provide a lifeline to hundreds of thousands of American small businesses along Main Street.

By Mr. KYL:

S. 3599. A bill to amend title 18, United States Code, to add crimes committed in Indian country or exclusive Federal jurisdiction as racketeering predicates; to the Committee on the Judiciary.

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

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

S. 3599

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

SECTION 1. CRIMES COMMITTED IN INDIAN COUNTRY OR EXCLUSIVE FEDERAL JURISDICTION AS RACKETEERING PREDICATES.

Section 1961(1)(A) of title 18, United States Code, is amended by inserting '', or would have been so chargeable if the act or threat (other than gambling conducted pursuant to Federal law) had not been committed in Indian country (as defined in section 1151) or in any other area of exclusive Federal jurisdiction,'' after ''chargeable under State law''.

By Mr. KYL:

S. 3600. A bill to amend title 35, United States Code, to provide for patent reform; to the Committee on the Judiciary.

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

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

S. 3600

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 ''Patent Reform Act of 2008''.

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

SEC. 2. RIGHT OF THE FIRST INVENTOR TO FILE.

(a) DEFINITIONS.—Section 100 of title 35, United States Code, is amended by adding at the end the following:

''(f) The term 'inventor' means the individual or, if a joint invention, the individuals collectively who invented or discovered the subject matter of the invention.

''(g) The terms 'joint inventor' and 'coinventor' mean any 1 of the individuals who invented or discovered the subject matter of a joint invention.

''(h) The 'effective filing date of a claimed invention' is—

''(1) the filing date of the patent or the application for patent containing the claim to the invention; or

''(2) if the patent or application for patent is entitled to a right of priority of any other application under section 119, 365(a), or 365(b) or to the benefit of an earlier filing date in the United States under section 120, 121, or 365(c), the filing date of the earliest such application in which the claimed invention is disclosed in the manner provided by the first paragraph of section 112.

''(i) The term 'claimed invention' means the subject matter defined by a claim in a patent or an application for a patent.''.

(b) CONDITIONS FOR PATENTABILITY.—

(1) IN GENERAL.—Section 102 of title 35, United States Code, is amended to read as follows:

''§ 102. Conditions for patentability; novelty

''(a) NOVELTY; PRIOR ART.—A patent for a claimed invention may not be obtained if—

''(1) the claimed invention was patented, described in a printed publication, or otherwise made available to the public (other than through testing undertaken to reduce the invention to practice)—

''(A) more than 1 year before the effective filing date of the claimed invention; or

''(B) 1 year or less before the effective filing date of the claimed invention, other than through disclosures made by the inventor or a joint inventor or by others who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor; or

''(2) the claimed invention was described in a patent issued under section 151, or in an application for patent published or deemed published under section 122(b), in which the patent or application, as the case may be, names another inventor and was effectively filed before the effective filing date of the claimed invention.

''(b) EXCEPTIONS.—

''(1) PRIOR INVENTOR DISCLOSURE EXCEPTION.—Subject matter that would otherwise qualify as prior art based upon a disclosure under subparagraph (B) of subsection (a)(1) shall not be prior art to a claimed invention under that subparagraph if the subject matter had, before such disclosure, been publicly disclosed by the inventor or a joint inventor or others who obtained the subject matter disclosed directly or indirectly from the inventor or a joint inventor.

''(2) DERIVATION, PRIOR DISCLOSURE, AND COMMON ASSIGNMENT EXCEPTIONS.—Subject matter that would otherwise qualify as prior art only under subsection (a)(2), after taking into account the exception under paragraph (1), shall not be prior art to a claimed invention if—

''(A) the subject matter was obtained directly or indirectly from the inventor or a joint inventor;

''(B) the subject matter had been publicly disclosed by the inventor or a joint inventor or others who obtained the subject matter disclosed, directly or indirectly, from the inventor or a joint inventor before the effective filing date of the application or patent set forth under subsection (a)(2); or

''(C) the subject matter and the claimed invention, not later than the effective filing date of the claimed invention, were owned by the same person or subject to an obligation of assignment to the same person.

''(3) JOINT RESEARCH AGREEMENT EXCEPTION.—

''(A) IN GENERAL.—Subject matter and a claimed invention shall be deemed to have been owned by the same person or subject to an obligation of assignment to the same person in applying the provisions of paragraph (2) if—

''(i) the subject matter and the claimed invention were made by or on behalf of 1 or more parties to a joint research agreement that was in effect on or before the effective filing date of the claimed invention;

''(ii) the claimed invention was made as a result of activities undertaken within the scope of the joint research agreement; and

''(iii) the application for patent for the claimed invention discloses or is amended to disclose the names of the parties to the joint research agreement.

''(B) For purposes of subparagraph (A), the term 'joint research agreement' means a written contract, grant, or cooperative agreement entered into by 2 or more persons or entities for the performance of experimental, developmental, or research work in the field of the claimed invention.

''(4) PATENTS AND PUBLISHED APPLICATIONS EFFECTIVELY FILED.—A patent or application for patent is effectively filed under subsection (a)(2) with respect to any subject matter described in the patent or application—

''(A) as of the filing date of the patent or the application for patent; or

''(B) if the patent or application for patent is entitled to claim a right of priority under section 119, 365(a), or 365(b) or to claim the benefit of an earlier filing date under section 120, 121, or 365(c), based upon 1 or more prior filed applications for patent, as of the filing date of the earliest such application that describes the subject matter.''.

(2) CONFORMING AMENDMENT.—The item relating to section 102 in the table of sections for chapter 10 of title 35, United States Code, is amended to read as follows:

''102. Conditions for patentability; novelty.''.

(c) CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.—Section 103 of title 35, United States Code, is amended to read as follows:

''§ 103. Conditions for patentability; nonobvious subject matter

''A patent for a claimed invention may not be obtained though the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.''.

(d) REPEAL OF REQUIREMENTS FOR INVENTIONS MADE ABROAD.—Section 104 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 10 of title 35, United States Code, are repealed.

(e) REPEAL OF STATUTORY INVENTION REGISTRATION.—

(1) IN GENERAL.—Section 157 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 14 of title 35, United States Code, are repealed.

(2) REMOVAL OF CROSS REFERENCES.—Section 111(b)(8) of title 35, United States Code, is amended by striking ''sections 115, 131, 135, and 157'' and inserting ''sections 131 and 135''.

(f) EARLIER FILING DATE FOR INVENTOR AND JOINT INVENTOR.—Section 120 of title 35, United States Code, is amended by striking ''which is filed by an inventor or inventors named'' and inserting ''which names an inventor or joint inventor''.

(g) CONFORMING AMENDMENTS.—

(1) RIGHT OF PRIORITY.—Section 172 of title 35, United States Code, is amended by striking ''and the time specified in section 102(d)''.

(2) LIMITATION ON REMEDIES.—Section 287(c)(4) of title 35, United States Code, is amended by striking ''the earliest effective filing date of which is prior to'' and inserting ''which has an effective filing date before''.

(3) INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES: EFFECT.—Section 363 of title 35, United States Code, is amended by striking ''except as otherwise provided in section 102(e) of this title''.

(4) PUBLICATION OF INTERNATIONAL APPLICATION: EFFECT.—Section 374 of title 35, United States Code, is amended by striking ''sections 102(e) and 154(d)'' and inserting ''section 154(d)''.

(5) PATENT ISSUED ON INTERNATIONAL APPLICATION: EFFECT.—The second sentence of section 375(a) of title 35, United States Code, is amended by striking ''Subject to section 102(e) of this title, such'' and inserting ''Such''.

(6) LIMIT ON RIGHT OF PRIORITY.—Section 119(a) of title 35, United States Code, is amended by striking ''; but no patent shall be granted'' and all that follows through ''one year prior to such filing''.

(7) INVENTIONS MADE WITH FEDERAL ASSISTANCE.—Section 202(c) of title 35, United States Code, is amended—

(A) in paragraph (2)—

(i) by striking ''publication, on sale, or public use,'' and all that follows through ''obtained in the United States'' and inserting ''the 1-year period referred to in section 102(a) would end before the end of that 2-year period''; and

(ii) by striking ''the statutory'' and inserting ''that 1-year''; and

(B) in paragraph (3), by striking ''any statutory bar date that may occur under this title due to publication, on sale, or public use'' and inserting ''the expiration of the 1-year period referred to in section 102(a)''.

(h) REPEAL OF INTERFERING PATENT REMEDIES.—Section 291 of title 35, United States Code, and the item relating to that section in the table of sections for chapter 29 of title 35, United States Code, are repealed.

(i) ACTION FOR CLAIM TO PATENT ON DERIVED INVENTION.—Section 135(a) of title 35, United States Code, is amended to read as follows:

''(a) DISPUTE OVER RIGHT TO PATENT.—

''(1) INSTITUTION OF DERIVATION PROCEEDING.—An applicant may request initiation of a derivation proceeding to determine the right of the applicant to a patent by filing a request which sets forth with particularity the basis for finding that an earlier applicant derived the claimed invention from the applicant requesting the proceeding and, without authorization, filed an application claiming such invention. Any such request may only be made within 1 year after the date of first publication of an application or of the issuance of a patent, whichever is earlier, containing a claim that is the same or is substantially the same as the claimed invention, must be made under oath, and must be supported by substantial evidence. Whenever the Director determines that patents or applications for patent naming different individuals as the inventor interfere with one another because of a dispute over the right to patent under section 101, the Director shall institute a derivation proceeding for the purpose of determining which applicant is entitled to a patent.

''(2) DETERMINATION BY PATENT TRIAL AND APPEAL BOARD.—In any proceeding under this subsection, the Patent Trial and Appeal Board—

''(A) shall determine the question of the right to patent;

''(B) in appropriate circumstances, may correct the naming of the inventor in any application or patent at issue; and

''(C) shall issue a final decision on the right to patent.

''(3) DERIVATION PROCEEDING.—The Board may defer action on a request to initiate a derivation proceeding until 3 months after the date on which the Director issues a patent to the applicant whose application has the earlier effective filing date of the commonly claimed invention.

''(4) EFFECT OF FINAL DECISION.—The final decision of the Patent Trial and Appeal Board, if adverse to the claim of an applicant, shall constitute the final refusal by the United States Patent and Trademark Office on the claims involved. The Director may issue a patent to an applicant who is determined by the Patent Trial and Appeal Board to have the right to patent. The final decision of the Board, if adverse to a patentee, shall, if no appeal or other review of the decision has been or can be taken or had, constitute cancellation of the claims involved in the patent, and notice of such cancellation shall be endorsed on copies of the patent distributed after such cancellation by the United States Patent and Trademark Office.''.

(j) ELIMINATION OF REFERENCES TO INTERFERENCES.—(1) Sections 6, 41, 134, 141, 145, 146, 154, 305, and 314 of title 35, United States Code, are each amended by striking ''Board of Patent Appeals and Interferences'' each place it appears and inserting ''Patent Trial and Appeal Board''.

(2) Sections 141, 146, and 154 of title 35, United States Code, are each amended—

(A) by striking ''an interference'' each place it appears and inserting ''a derivation proceeding''; and

(B) by striking ''interference'' each additional place it appears and inserting ''derivation proceeding''.

(3) The section heading for section 134 of title 35, United States Code, is amended to read as follows:

''§ 134. Appeal to the Patent Trial and Appeal Board''.

(4) The section heading for section 135 of title 35, United States Code, is amended to read as follows:

''§ 135. Derivation proceedings''.

(5) The section heading for section 146 of title 35, United States Code, is amended to read as follows:

''§ 146. Civil action in case of derivation proceeding''.

(6) Section 154(b)(1)(C) of title 35, United States Code, is amended by striking ''INTERFERENCES'' and inserting ''DERIVATION PROCEEDINGS''.

(7) The item relating to section 6 in the table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''6. Patent Trial and Appeal Board.''.

(8) The items relating to sections 134 and 135 in the table of sections for chapter 12 of title 35, United States Code, are amended to read as follows:

''134. Appeal to the Patent Trial and Appeal Board.

''135. Derivation proceedings.''.

(9) The item relating to section 146 in the table of sections for chapter 13 of title 35, United States Code, is amended to read as follows:

''146. Civil action in case of derivation proceeding.''.

(10) CERTAIN APPEALS.—Section 1295(a)(4)(A) of title 28, United States Code, is amended to read as follows:

''(A) the Patent Trial and Appeal Board of the United States Patent and Trademark Office with respect to patent applications, derivation proceedings, and post-grant review proceedings, at the instance of an applicant for a patent or any party to a patent interference (commenced before the effective date of the Patent Reform Act of 2008), derivation proceeding, or post-grant review proceeding, and any such appeal shall waive any right of such applicant or party to proceed under section 145 or 146 of title 35;''.

SEC. 3. INVENTOR'S OATH OR DECLARATION.

(a) INVENTOR'S OATH OR DECLARATION.—

(1) IN GENERAL.—Section 115 of title 35, United States Code, is amended to read as follows:

''§ 115. Inventor's oath or declaration

''(a) NAMING THE INVENTOR; INVENTOR'S OATH OR DECLARATION.—An application for patent that is filed under section 111(a) or that commences the national stage under section 371 (including an application under section 111 that is filed by an inventor for an invention for which an application has previously been filed under this title by that inventor) shall include, or be amended to include, the name of the inventor of any claimed invention in the application. Except as otherwise provided in this section, an individual who is the inventor or a joint inventor of a claimed invention in an application for patent shall execute an oath or declaration in connection with the application.

''(b) REQUIRED STATEMENTS.—An oath or declaration under subsection (a) shall contain statements that—

''(1) the application was made or was authorized to be made by the affiant or declarant; and

''(2) such individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

''(c) ADDITIONAL REQUIREMENTS.—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

''(d) SUBSTITUTE STATEMENT.—

''(1) IN GENERAL.—In lieu of executing an oath or declaration under subsection (a), the applicant for patent may provide a substitute statement under the circumstances described in paragraph (2) and such additional circumstances that the Director may specify by regulation.

''(2) PERMITTED CIRCUMSTANCES.—A substitute statement under paragraph (1) is permitted with respect to any individual who—

''(A) is unable to file the oath or declaration under subsection (a) because the individual—

''(i) is deceased;

''(ii) is under legal incapacity; or

''(iii) cannot be found or reached after diligent effort; or

''(B) is under an obligation to assign the invention but has refused to make the oath or declaration required under subsection (a).

''(3) CONTENTS.—A substitute statement under this subsection shall—

''(A) identify the individual with respect to whom the statement applies;

''(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

''(C) contain any additional information, including any showing, required by the Director.

''(e) MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.—An individual who is under an obligation of assignment of an application for patent may include the required statements under subsections (b) and (c) in the assignment executed by the individual, in lieu of filing such statements separately.

''(f) TIME FOR FILING.—A notice of allowance under section 151 may be provided to an applicant for patent only if the applicant for patent has filed each required oath or declaration under subsection (a) or has filed a substitute statement under subsection (d) or recorded an assignment meeting the requirements of subsection (e).

''(g) EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTE STATEMENT.—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and that claims the benefit under section 120 or 365(c) of the filing of an earlier-filed application, if—

''(1) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

''(2) a substitute statement meeting the requirements of subsection (d) was filed in the earlier filed application with respect to the individual; or

''(3) an assignment meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

''(h) SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.—

''(1) IN GENERAL.—Any person making a statement required under this section may

withdraw, replace, or otherwise correct the statement at any time. If a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, the Director shall establish regulations under which such additional statements may be filed.

''(2) SUPPLEMENTAL STATEMENTS NOT REQUIRED.—If an individual has executed an oath or declaration under subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

''(3) SAVINGS CLAUSE.—No patent shall be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

''(i) ACKNOWLEDGMENT OF PENALTIES.—Any declaration or statement filed pursuant to this section shall contain an acknowledgment that any willful false statement made in such declaration or statement is punishable under section 1001 of title 18 by fine or imprisonment of not more than 5 years, or both.''.

(2) RELATIONSHIP TO DIVISIONAL APPLICATIONS.—Section 121 of title 35, United States Code, is amended by striking ''If a divisional application'' and all that follows through ''inventor.''.

(3) REQUIREMENTS FOR NONPROVISIONAL APPLICATIONS.—Section 111(a) of title 35, United States Code, is amended—

(A) in paragraph (2)(C), by striking ''by the applicant'' and inserting ''or declaration'';

(B) in the heading for paragraph (3), by striking ''AND OATH''; and

(C) by striking ''and oath'' each place it appears.

(4) CONFORMING AMENDMENT.—The item relating to section 115 in the table of sections for chapter 10 of title 35, United States Code, is amended to read as follows:

''115. Inventor's oath or declaration.''.

(b) FILING BY OTHER THAN INVENTOR.—Section 118 of title 35, United States Code, is amended to read as follows:

''§ 118. Filing by other than inventor

''A person to whom the inventor has assigned or is under an obligation to assign the invention may make an application for patent. A person who otherwise shows sufficient proprietary interest in the matter may make an application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is appropriate to preserve the rights of the parties. If the Director grants a patent on an application filed under this section by a person other than the inventor, the patent shall be granted to the real party in interest and upon such notice to the inventor as the Director considers to be sufficient.''.

(c) SPECIFICATION.—Section 112 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''The specification'' and inserting ''(a) IN GENERAL.—The specification''; and

(B) by striking '', and shall set forth'' and all that follows through ''his invention''; and

(2) in the second paragraph—

(A) by striking ''The specifications'' and inserting ''(b) CONCLUSION.—The specifications''; and

(B) by striking ''applicant regards as his invention'' and inserting ''inventor or a joint inventor regards as the invention'';

(3) in the third paragraph, by striking ''A claim'' and inserting ''(c) FORM.—A claim'';

(4) in the fourth paragraph, by striking ''Subject to the following paragraph,'' and inserting ''(d) REFERENCE IN DEPENDENT FORMS.—Subject to subsection (e),'';

(5) in the fifth paragraph, by striking ''A claim'' and inserting ''(e) REFERENCE IN MULTIPLE DEPENDENT FORM.—A claim''; and

(6) in the last paragraph, by striking ''An element'' and inserting ''(f) ELEMENT IN CLAIM FOR A COMBINATION.—An element''.

SEC. 4. DAMAGES.

(a) DAMAGES.—Section 284 of title 35, United States Code, is amended to read as follows:

''§ 284. Damages

''(a) IN GENERAL.—

''(1) COMPENSATORY DAMAGES.—Upon finding for a claimant, the court shall award the claimant damages adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as determined by the court.

''(2) INCREASED DAMAGES.—When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to 3 times the amount found or assessed. Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.

''(3) LIMITATION.—Subsections (b) through (i) of this section apply only to the determination of the amount of reasonable royalty and shall not apply to the determination of other types of damages.

''(b) HYPOTHETICAL NEGOTIATION.—For purposes of this section, the term 'reasonable royalty' means the amount that the infringer would have agreed to pay and the claimant would have agreed to accept if the infringer and claimant had voluntarily negotiated a license for use of the invention at the time just prior to when the infringement began. The court or the jury, as the case may be, shall assume that the infringer and claimant would have agreed that the patent is valid, enforceable, and infringed.

''(c) APPROPRIATE FACTORS.—The court or the jury, as the case may be, may consider any factors that are relevant to the determination of the amount of a reasonable royalty.

''(d) STANDARDIZED MEASURES.—The amount of a reasonable royalty shall not be determined by the use of a standard or average ratio for the division of profits, an industry average rate for royalties, or other methods that are not based on the particular benefits or advantages of the use of the invention, unless the party asserting the propriety of such a method demonstrates that—

''(1) the use made of the invention is the primary reason for demand for the infringing product or process;

''(2) the method consists of the use of an established royalty;

''(3) the method consists of the use of an industry average range to confirm that an estimate of the amount of a reasonable royalty that is produced by an independently allowable method falls within a reasonable range; or

''(4) no other method is reasonably available to determine the amount of a reasonable royalty and the use of the method is otherwise appropriate.

''(e) COMPARABLE PATENTS.—

''(1) IN GENERAL.—The amount of a reasonable royalty shall not be determined by comparison to royalties paid for patents other than the patent in suit unless—

''(A) such other patents are used in the same or an analogous technological field;

''(B) such other patents are found to be economically comparable to the patent in suit; and

''(C) evidence of the value of such other patents is presented in conjunction with or as confirmation of other evidence for determining the amount of a reasonable royalty.

''(2) FACTORS.—Factors that may be considered to determine whether another patent is economically comparable to the patent in suit under paragraph (1)(A) include whether—

''(A) the other patent is comparable to the patent in suit in terms of the overall significance of the other patent to the product or process licensed under such other patent; and

''(B) the product or process that uses the other patent is comparable to the infringing product or process based upon its profitability or a like measure of value.

''(f) FINANCIAL CONDITION.—The financial condition of the infringer as of the time of the trial shall not be relevant to the determination of the amount of a reasonable royalty.

''(g) SEQUENCING.—Either party may request that a patent-infringement trial be sequenced so that the court or the jury, as the case may be, decides questions of the patent's infringement and validity before the issue of the amount of a reasonable royalty is presented to the court or the jury, as the case may be. The court shall grant such a request absent good cause to reject the request, such as the absence of issues of significant damages or infringement and validity. The sequencing of a trial pursuant to this subsection shall not affect other matters, such as the timing of discovery.

''(h) EXPERTS.—In addition to the expert disclosure requirements under rule 26(a)(2) of the Federal Rules of Civil Procedure, a party that intends to present the testimony of an expert relating to the amount of a reasonable royalty shall provide—

''(1) to the other parties to that civil action, the expert report relating to damages, including all data and other information considered by the expert in forming the opinions of the expert; and

''(2) to the court, at the same time as to the other parties, the complete statement of all opinions that the expert will express and the basis and reasons for those opinions.

''(i) JURY INSTRUCTIONS.—On the motion of any party and after allowing any other party to the civil action a reasonable opportunity to be heard, the court shall determine whether there is no legally sufficient evidence to support 1 or more of the contentions of a party relating to the amount of a reasonable royalty. The court shall identify for the record those factors that are supported by legally sufficient evidence, and shall instruct the jury to consider only those factors when determining the amount of a reasonable royalty. The jury may not consider any factor for which legally sufficient evidence has not been admitted at trial.''.

(b) TESTIMONY BY EXPERTS.—Chapter 29 of title 35, United States Code, as amended by section 11, is further amended by adding at the end the following:

''§ 299A. Testimony by experts

''(a) FEDERAL RULE.—In a patent case, the court shall ensure that the testimony of a witness qualified as an expert by knowledge, skill, experience, training, or education meets the requirements set forth in rule 702 of the Federal Rules of Evidence.

''(b) DETERMINATION OF RELIABILITY.—To determine whether an expert's principles and methods are reliable, the court may consider, among other factors—

''(1) whether the expert's theory or technique can be or has been tested;

''(2) whether the theory or technique has been subjected to peer review and publication;

''(3) the known or potential error rate of the theory or technique, and the existence

and maintenance of standards controlling the technique's operation;

''(4) the degree of acceptance of the theory or technique within the relevant scientific or specialized community;

''(5) whether the theory or technique is employed independently of litigation; or

''(6) whether the expert has adequately considered or accounted for readily available alternative theories or techniques.

''(c) REQUIRED EXPLANATION.—The court shall explain its reasons for allowing or barring the introduction of an expert's proposed testimony under this section.''.

SEC. 5. POST-GRANT REVIEW PROCEEDINGS.

(a) REEXAMINATION.—Section 303(a) of title 35, United States Code, is amended to read as follows:

''(a) Within 3 months after the owner of a patent files a request for reexamination under section 302, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.''.

(b) REPEAL OF OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—

(1) IN GENERAL.—Sections 311, 312, 313, 314, 315, 316, 317, and 318 of title 35, United States Code, and the items relating to those sections in the table of sections, are repealed.

(2) EFFECTIVE DATE.—Notwithstanding paragraph (1), the provisions of sections 311, 312, 313, 314, 315, 316, 317, and 318 of title 35, United States Code, shall continue to apply to any inter partes reexamination determination request filed on or before the effective date of subsection (c).

(c) POST-GRANT REVIEW PROCEEDINGS.—Part III of title 35, United States Code, is amended by adding at the end the following:

''CHAPTER 32—POST-GRANT REVIEW PROCEEDINGS

''§ 321. Petition for post-grant review

''(a) IN GENERAL.—Subject to the provisions of this chapter, a person who has a substantial economic interest adverse to a patent may file with the Office a petition to institute a post-grant review proceeding for that patent. If instituted, such a proceeding shall be deemed to be either a first-period proceeding or a second-period proceeding. The Director shall establish, by regulation, fees to be paid by the person requesting the proceeding, in such amounts as the Director determines to be reasonable, considering the aggregate costs of the post-grant review proceeding and the status of the petitioner.

''(b) FIRST-PERIOD PROCEEDING.—

''(1) SCOPE.—A petitioner in a first-period proceeding may request to cancel as unpatentable 1 or more claims of a patent on any ground that could be raised under paragraph (2) or (3) of section 282(b) (relating to invalidity of the patent or any claim).

''(2) FILING DEADLINE.—A petition for a first-period proceeding shall be filed not later than 9 months after the grant of the patent or issuance of a reissue patent.

''(c) SECOND-PERIOD PROCEEDING.—

''(1) SCOPE.—A petitioner in a second-period proceeding may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103 and only on the basis of prior art consisting of patents or printed publications.

''(2) FILING DEADLINE.—A petition for a second-period proceeding shall be filed after the later of either—

''(A) 9 months after the grant of a patent or issuance of a reissue of a patent; or

''(B) if a first-period proceeding is instituted under section 327, the date of the termination of such first-period proceeding.

''§ 322. Relation to other proceedings or actions

''(a) EARLY ACTIONS.—A first-period proceeding may not be instituted until after a civil action alleging infringement of the patent is finally concluded if—

''(1) the infringement action is filed within 3 months after the grant of the patent;

''(2) a stay of the proceeding is requested by the patent owner;

''(3) the Director determines that the infringement action is likely to address the same or substantially the same questions of patentability that would be addressed in the proceeding; and

''(4) the Director determines that a stay of the proceeding would not be contrary to the interests of justice.

''(b) PENDING CIVIL ACTIONS.—

''(1) INFRINGER'S ACTION.—A post-grant review proceeding may not be instituted or maintained if the petitioner or real party in interest has filed a civil action challenging the validity of a claim of the patent.

''(2) PATENT OWNER'S ACTION.—A second-period proceeding may not be instituted if the petition requesting the proceeding is filed more than 3 months after the date on which the petitioner, real party in interest, or his privy is required to respond to a civil action alleging infringement of the patent.

''(3) STAY OR DISMISSAL.—The Director may stay or dismiss a second-period proceeding if the petitioner or real party in interest challenges the validity of a claim of the patent in a civil action.

''(c) DUPLICATIVE PROCEEDINGS.—A post-grant review or reexamination proceeding may not be instituted if—

''(1) the petition requesting the proceeding identifies the same petitioner or real party in interest and the same patent as a previous petition requesting a post-grant review proceeding; or

''(2) the petition requests cancellation of a claim in a reissue patent that is identical to a claim in the original patent from which the reissue patent was issued, and the time limitations in section 321 would bar filing a post-grant review petition for such original patent.

''(d) ESTOPPEL.—The petitioner in any post-grant review proceeding under this chapter may not request or maintain a proceeding before the Office with respect to a claim, or assert either in a civil action arising in whole or in part under section 1338 of title 28 or in a proceeding before the International Trade Commission that a claim in a patent is invalid, on any ground that—

''(1) the petitioner, real party in interest, or his privy raised during a post-grant review proceeding resulting in a final decision under section 334; or

''(2) the petitioner, real party in interest, or his privy could have raised during a second-period proceeding resulting in a final decision under section 334.

''§ 323. Requirements of petition

''A petition filed under section 321 may be considered only if—

''(1) the petition is accompanied by payment of the fee established by the Director under section 321;

''(2) the petition identifies all real parties in interest;

''(3) the petition identifies, in writing and with particularity, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for each challenged claim, including—

''(A) copies of patents and printed publications that the petitioner relies upon in support of the petition; and

''(B) affidavits or declarations of supporting evidence and opinions, if the petitioner relies on other factual evidence or on expert opinions;

''(4) the petition provides such other information as the Director may require by regulation; and

''(5) the petitioner provides copies of any of the documents required under paragraphs (3) and (4) to the patent owner or, if applicable, the designated representative of the patent owner.

''§ 324. Publication and public availability of petition

''(a) IN GENERAL.—As soon as practicable after the receipt of a petition under section 321, the Director shall—

''(1) publish the petition in the Federal Register; and

''(2) make that petition available on the website of the United States Patent and Trademark Office.

''(b) PUBLIC AVAILABILITY.—The file of any proceeding under this chapter shall be made available to the public except that any petition or document filed with the intent that it be sealed shall be accompanied by a motion to seal. Such petition or document shall be treated as sealed, pending the outcome of the ruling on the motion. Failure to file a motion to seal will result in the pleadings being placed in the public record.

''§ 325. Consolidation or stay of proceedings

''(a) FIRST-PERIOD PROCEEDINGS.—If more than 1 petition for a first-period proceeding is properly filed against the same patent and the Director determines that more than 1 of these petitions warrants the instituting of a first-period proceeding under section 327, the Director shall consolidate such proceedings into a single first-period proceeding.

''(b) SECOND-PERIOD PROCEEDINGS.—If the Director institutes a second-period proceeding, the Director, in his discretion, may join as a party to that second-period proceeding any person who properly files a petition under section 321 that the Director, after receiving a preliminary response under section 330 or the expiration of the time for filing such a response, determines warrants the instituting of a second-period proceeding under section 327.

''(c) OTHER PROCEEDINGS.—Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of any post-grant review proceeding the Director may determine the manner in which any proceeding or matter involving the patent that is before the Office may proceed, including providing for stay, transfer, consolidation, or termination of any such proceeding or matter.

''§ 326. Submission of additional information

''A petitioner under this chapter shall file such additional information with respect to

the petition as the Director may require by regulation.

''§ 327. Institution of post-grant review proceedings

''(a) THRESHOLD.—The Director may not authorize a post-grant review proceeding to commence unless the Director determines that the information presented in the petition, if such information is not rebutted, would provide a sufficient basis to conclude that at least 1 of the claims challenged in the petition is unpatentable.

''(b) ADDITIONAL GROUNDS.—In the case of a petition for a first-period proceeding, the determination required under subsection (a) may be satisfied by a showing that the petition raises a novel or unsettled legal question that is important to other patents or patent applications.

''(c) SUCCESSIVE PETITIONS.—The Director may not institute an additional second-period proceeding if a prior second-period proceeding has been instituted and the time period established under section 329(b)(2) for requesting joinder under section 325(b) has expired, unless the Director determines that—

''(1) the additional petition satisfies the requirements under subsection (a); and

''(2) either—

''(A) the additional petition presents exceptional circumstances; or

''(B) such an additional proceeding is reasonably required in the interests of justice.

''(d) TIMING.—The Director shall determine whether to institute a post-grant review proceeding under this chapter within 3 months after receiving a preliminary response under section 330 or the expiration of the time for filing such a response.

''(e) NOTICE.—The Director shall notify the petitioner and patent owner, in writing, of the Director's determination under subsection (a). The Director shall publish each notice of institution of a post-grant review proceeding in the Federal Register and make such notice available on the website of the United States Patent and Trademark Office. Such notice shall list the date on which the proceeding shall commence.

''§ 328. Determination not appealable

''The determination by the Director regarding whether to institute a post-grant review proceeding under section 327 shall not be appealable.

''§ 329. Conduct of post-grant review proceedings

''(a) IN GENERAL.—The Director shall prescribe regulations—

''(1) in accordance with section 2(b)(2), establishing and governing post-grant review proceedings under this chapter and their relationship to other proceedings under this title;

''(2) for setting forth the standards for showings of sufficient grounds to institute a proceeding under section 321(a) and subsections (a), (b), and (c) of section 327;

''(3) providing for the publication in the Federal Register all requests for the institution of post-grant proceedings;

''(4) establishing procedures for the submission of supplemental information after the petition is filed; and

''(5) setting forth procedures for discovery of relevant evidence, including that such discovery shall be limited to evidence directly related to factual assertions advanced by either party in the proceeding.

''(b) POST-GRANT REVIEW REGULATIONS.—The regulations required under subsection (a)(1) shall—

''(1) require that the final determination in any post-grant review proceeding be issued not later than 1 year after the date on which the Director notices the institution of a post-grant proceeding under this chapter, except that the Director may, for good cause shown, extend the 1-year period by not more than 6 months, and may adjust the time periods in this paragraph in the case of joinder under section 325(b);

''(2) set a time period for requesting joinder under section 325(b);

''(3) allow for discovery upon order of the Director, provided that in a second-period proceeding discovery shall be limited to—

''(A) the deposition of witnesses submitting affidavits or declarations; and

''(B) what is otherwise necessary in the interest of justice;

''(4) prescribe sanctions for abuse of discovery, abuse of process, or any other improper use of the proceeding, such as to harass or to cause unnecessary delay or unnecessary increase in the cost of the proceeding;

''(5) provide for protective orders governing the exchange and submission of confidential information;

''(6) ensure that any information submitted by the patent owner in support of any amendment entered under section 332 is made available to the public as part of the prosecution history of the patent; and

''(7) provide either party with the right to an oral hearing as part of the proceeding.

''(c) CONSIDERATIONS.—In prescribing regulations under this section, the Director shall consider the effect on the economy, the integrity of the patent system, and the efficient administration of the Office.

''(d) CONDUCT OF PROCEEDING.—The Patent Trial and Appeal Board shall, in accordance with section 6(b), conduct each proceeding authorized by the Director.

''§ 330. Patent owner response

''(a) PRELIMINARY RESPONSE.—If a post-grant review petition is filed under section 321, the patent owner shall have the right to file a preliminary response—

''(1) in the case of a first-period proceeding, within 2 months of the expiration of the time for filing a petition for a first-period proceeding; and

''(2) in the case of a second-period proceeding, within a time period set by the Director.

''(b) CONTENT OF RESPONSE.—A preliminary response to a petition for a post-grant review proceeding shall set forth reasons why no post-grant review proceeding should be instituted based upon the failure of the petition to meet any requirement of this chapter.

''(c) ADDITIONAL RESPONSE.—After a post-grant review proceeding under this chapter has been instituted with respect to a patent, the patent owner shall have the right to file, within a time period set by the Director, a response to the petition. The patent owner shall file with the response, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response.

''§ 331. Proof and evidentiary standards

''(a) IN GENERAL.—The presumption of validity set forth in section 282 of this title shall apply in post-grant review proceedings instituted under this chapter.

''(b) BURDEN OF PROOF.—The petitioner shall have the burden of proving a proposition of invalidity by a preponderance of the evidence in a first-period proceeding and by clear and convincing evidence in a second-period proceeding.

''§ 332. Amendment of the patent

''(a) IN GENERAL.—During a post-grant review proceeding instituted under this chapter, the patent owner may file 1 motion to amend the patent in 1 or more of the following ways:

''(1) Cancel any challenged patent claim.

''(2) For each challenged claim, propose a reasonable number of substitute claims.

''(b) ADDITIONAL MOTIONS.—Additional motions to amend may be permitted upon the joint request of the petitioner and the patent owner to materially advance the settlement of a proceeding under section 333, or upon the request of the patent owner for good cause shown.

''(c) SCOPE OF CLAIMS.—An amendment under this section may not enlarge the scope of the claims of the patent or introduce new matter.

''§ 333. Settlement

''(a) IN GENERAL.—A post-grant review proceeding instituted under this chapter shall be terminated with respect to any petitioner upon the joint request of the petitioner and the patent owner, unless the Office has decided the matter before the request for termination is filed. If the post-grant review proceeding is terminated with respect to a petitioner under this section, no estoppel under this chapter shall apply to that petitioner. If no petitioner remains in the post-grant review proceeding, the Office may terminate the post-grant review proceeding or proceed to a final written decision under section 334.

''(b) AGREEMENTS IN WRITING.—Any agreement or understanding between the patent owner and a petitioner, including any collateral agreements referred to in such agreement or understanding, made in connection with, or in contemplation of, the termination of a post-grant review proceeding under this section shall be in writing and a true copy of such agreement or understanding shall be filed in the United States Patent and Trademark Office before the termination of the post-grant review proceeding as between the parties to the agreement or understanding. If any party filing such agreement or understanding so requests, the copy shall be kept separate from the file of the post-grant review proceeding, and shall be made available only to Federal Government agencies upon written request, or to any other person on a showing of good cause.

''§ 334. Decision of the board

''If the post-grant review proceeding is instituted and not dismissed under this chapter, the Patent Trial and Appeal Board shall issue a final written decision with respect to the patentability of any patent claim challenged and any new claim added under section 332.

''§ 335. Effect of decision

''If the Patent Trial and Appeal Board issues a final decision under section 334 and the time for appeal has expired or any appeal proceeding has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable and incorporating in the patent by operation of the certificate any new claim determined to be patentable.

''§ 336. Appeal

''A party dissatisfied with the final determination of the Patent Trial and Appeal Board in a post-grant review proceeding instituted under this chapter may appeal the determination under sections 141 through 144. Any party to the post-grant review proceeding shall have the right to be a party to the appeal.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 35, United States Code, is amended by adding at the end the following:

''32. Post-Grant Review Proceedings ...321''.

(e) REGULATIONS AND EFFECTIVE DATE.—

(1) REGULATIONS.—The Under Secretary of Commerce for Intellectual Property and the Director of the United States Patent and

Trademark Office (in this subsection referred to as the ''Director'') shall, not later than the date that is 1 year after the date of the enactment of this Act, issue regulations to carry out chapter 32 of title 35, United States Code, as added by subsection (c) of this section.

(2) APPLICABILITY.—The amendments made by subsection (c) shall take effect on the date that is 1 year after the date of the enactment of this Act and shall apply only to patents issued on or after that date, except that, in the case of a patent issued before the effective date of subsection (c) on an application filed between September 15, 1999 and the effective date of subsection (c), a petition for second-period review may be filed.

(3) PENDING INTERFERENCES.—The Director shall determine the procedures under which interferences commenced before the effective date under paragraph (2) are to proceed, including whether any such interference is to be dismissed without prejudice to the filing of a petition for a post-grant review proceeding under chapter 32 of title 35, United States Code, or is to proceed as if this Act had not been enacted. The Director shall include such procedures in regulations issued under paragraph (1).

SEC. 6. DEFINITION; PATENT TRIAL AND APPEAL BOARD.

(a) DEFINITION.—Section 100 of title 35, United States Code, as amended by section 2 of this Act, is further amended in subsection (e), by striking ''or inter partes reexamination under section 311''.

(b) PATENT TRIAL AND APPEAL BOARD.—Section 6 of title 35, United States Code, is amended to read as follows:

''§ 6. Patent trial and appeal board

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Secretary. Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Board of Patent Appeals and Interferences is deemed to refer to the Patent Trial and Appeal Board.

''(b) DUTIES.—The Patent Trial and Appeal Board shall—

''(1) on written appeal of an applicant, review adverse decisions of examiners upon application for patents;

''(2) on written appeal of a patent owner, review adverse decisions of examiners upon patents in reexamination proceedings under chapter 30;

''(3) determine priority and patentability of invention in derivation proceedings under subsection 135(a); and

''(4) conduct post-grant review proceedings under chapter 32.

Each appeal, derivation, and post-grant review proceeding shall be heard by at least 3 members of the Patent Trial and Appeal Board, who shall be designated by the Director. Only the Patent Trial and Appeal Board may grant rehearings.''.

SEC. 7. SUBMISSIONS BY THIRD PARTIES AND OTHER QUALITY ENHANCEMENTS.

Section 122 of title 35, United States Code, is amended by adding at the end the following:

''(e) PREISSUANCE SUBMISSIONS BY THIRD PARTIES.—

''(1) IN GENERAL.—Any person may submit for consideration and inclusion in the record of a patent application, any patent, published patent application, or other publication of potential relevance to the examination of the application, if such submission is made in writing before the earlier of—

''(A) the date a notice of allowance under section 151 is mailed in the application for patent; or

''(B) either—

''(i) 6 months after the date on which the application for patent is published under section 122, or

''(ii) the date of the first rejection under section 132 of any claim by the examiner during the examination of the application for patent,

whichever occurs later.

''(2) OTHER REQUIREMENTS.—Any submission under paragraph (1) shall—

''(A) set forth a concise description of the asserted relevance of each submitted document;

''(B) be accompanied by such fee as the Director may prescribe; and

''(C) include a statement by the person making such submission affirming that the submission was made in compliance with this section.''.

SEC. 8. VENUE.

(a) VENUE FOR PATENT CASES.—Section 1400 of title 28, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) Notwithstanding subsections (b) and (c) of section 1391 of this title, any civil action for patent infringement or any action for declaratory judgment arising under any Act of Congress relating to patents may be brought only in a judicial district—

''(1) where the defendant has its principal place of business or is incorporated;

''(2) where the defendant has committed acts of infringement and has a regular and established physical facility;

''(3) where the defendant has agreed or consented to be sued;

''(4) where the invention claimed in a patent in suit was conceived or actually reduced to practice;

''(5) where significant research and development of an invention claimed in a patent in suit occurred at a regular and established physical facility;

''(6) where a party has a regular and established physical facility that such party controls and operates and has—

''(A) engaged in management of significant research and development of an invention claimed in a patent in suit;

''(B) manufactured a product that embodies an invention claimed in a patent in suit; or

''(C) implemented a manufacturing process that embodies an invention claimed in a patent in suit;

''(7) where a nonprofit organization whose function is the management of inventions on behalf of an institution of higher education (as that term is defined under section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))), including the patent in suit, has its principal place of business; or

''(8) for foreign defendants that do not meet the requirements of paragraphs (1) or (2), according to section 1391(d) of this title.''.

(b) TECHNICAL AMENDMENTS RELATING TO VENUE.—Sections 32, 145, 146, 154(b)(4)(A), and 293 of title 35, United States Code, and section 1071(b)(4) of an Act entitled ''Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'') are each amended by striking ''United States District Court for the District of Columbia'' each place that term appears and inserting ''United States District Court for the Eastern District of Virginia''.

SEC. 9. PATENT AND TRADEMARK OFFICE REGULATORY AUTHORITY.

(a) FEE SETTING.—

(1) IN GENERAL.—The Director shall have authority to set or adjust by rule any fee established or charged by the Office under sections 41 and 376 of title 35, United States Code or under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) for the filing or processing of any submission to, and for all other services performed by or materials furnished by, the Office, provided that such fee amounts are set to reasonably compensate the Office for the services performed.

(2) REDUCTION OF FEES IN CERTAIN FISCAL YEARS.—In any fiscal year, the Director—

(A) shall consult with the Patent Public Advisory Committee and the Trademark Public Advisory Committee on the advisability of reducing any fees described in paragraph (1); and

(B) after that consultation may reduce such fees.

(3) ROLE OF THE PUBLIC ADVISORY COMMITTEE.—The Director shall—

(A) submit to the Patent or Trademark Public Advisory Committee, or both, as appropriate, any proposed fee under paragraph (1) not less than 45 days before publishing any proposed fee in the Federal Register;

(B) provide the relevant advisory committee described in subparagraph (A) a 30-day period following the submission of any proposed fee, on which to deliberate, consider, and comment on such proposal, and require that—

(i) during such 30-day period, the relevant advisory committee hold a public hearing related to such proposal; and

(ii) the Director shall assist the relevant advisory committee in carrying out such public hearing, including by offering the use of Office resources to notify and promote the hearing to the public and interested stakeholders;

(C) require the relevant advisory committee to make available to the public a written report detailing the comments, advice, and recommendations of the committee regarding any proposed fee;

(D) consider and analyze any comments, advice, or recommendations received from the relevant advisory committee before setting or adjusting any fee; and

(E) notify, through the Chair and Ranking Member of the Senate and House Judiciary Committees, the Congress of any final decision regarding proposed fees.

(4) PUBLICATION IN THE FEDERAL REGISTER.—

(A) IN GENERAL.—Any rules prescribed under this subsection shall be published in the Federal Register.

(B) RATIONALE.—Any proposal for a change in fees under this section shall—

(i) be published in the Federal Register; and

(ii) include, in such publication, the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change.

(C) PUBLIC COMMENT PERIOD.—Following the publication of any proposed fee in the Federal Register pursuant to subparagraph (A), the Director shall seek public comment for a period of not less than 45 days.

(5) CONGRESSIONAL COMMENT PERIOD.—Following the notification described in paragraph (3)(E), Congress shall have not more than 45 days to consider and comment on any proposed fee under paragraph (1). No proposed fee shall be effective prior to the end of such 45-day comment period.

(6) RULE OF CONSTRUCTION.—No rules prescribed under this subsection may diminish—

(A) an applicant's rights under this title or the Trademark Act of 1946; or

(B) any rights under a ratified treaty.

(b) FEES FOR PATENT SERVICES.—Division B of Public Law 108–447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 2005, in section 801(a) by striking ''During fiscal years 2005, 2006, and 2007,'', and inserting ''Until such time as the Director sets or adjusts the fees otherwise,''.

(c) ADJUSTMENT OF TRADEMARK FEES.—Division B of Public Law 108–447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005, in section 802(a) by striking ''During fiscal years 2005, 2006, and 2007,'', and inserting ''Until such time as the Director sets or adjusts the fees otherwise,''.

(d) EFFECTIVE DATE, APPLICABILITY, AND TRANSITIONAL PROVISION.—Division B of Public Law 108–447 is amended in title VIII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005, in section 803(a) by striking ''and shall apply only with respect to the remaining portion of fiscal year 2005 and fiscal year 2006.''.

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any other provision of Division B of Public Law 108–447, including section 801(c) of title VII of the Departments of Commerce, Justice and State, the Judiciary and Related Agencies Appropriations Act, 2005.

(f) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the United States Patent and Trademark Office.

(2) OFFICE.—The term ''Office'' means the United States Patent and Trademark Office.

(3) TRADEMARK ACT OF 1946.—The term ''Trademark Act of 1946'' means an Act entitled ''Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946 or the Lanham Act).

SEC. 10. APPLICANT QUALITY SUBMISSIONS.

(a) IN GENERAL.—Chapter 11 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 123. Additional information

''(a) INCENTIVES.—The Director may, by regulation, offer incentives to applicants who submit a search report, a patentability analysis, or other information relevant to patentability. Such incentives may include prosecution flexibility, modifications to requirements for adjustment of a patent term pursuant to section 154(b) of this title, or modifications to fees imposed pursuant to section 9 of the Patent Reform Act of 2008.

''(b) ADMISSIBILITY OF RECORD.—If the Director certifies that an applicant has satisfied the requirements of the regulations issued pursuant to this section with regard to a patent, the record made in a matter or proceeding before the Office involving that patent or efforts to obtain the patent shall not be admissible to construe the patent in a civil action or in a proceeding before the International Trade Commission, except that such record may be introduced to demonstrate that the patent owner is estopped from asserting that the patent is infringed under the doctrine of equivalents. The Director may, by regulation, identify any material submitted in an attempt to satisfy the requirements of any regulations issued pursuant to this section that also shall not be admissible to construe the patent in a civil action or in a proceeding before the International Trade Commission.''.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to imply that, prior to the date of enactment of this section, the Director either lacked or possessed the authority to offer incentives to applicants who submit a search report, a patentability analysis, or other information relevant to patentability.

SEC. 11. INEQUITABLE CONDUCT AND CIVIL SANCTIONS FOR MISCONDUCT BEFORE THE OFFICE.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following new sections:

''§ 298. Inequitable conduct

''(a) IN GENERAL.—Except as provided under this section or section 299, a patent shall not be held invalid or unenforceable based upon misconduct before the Office. Nothing in this section shall be construed to create a cause of action or a defense in a civil action.

''(b) ORDER TO REISSUE PATENT.—

''(1) FINDING OF THE COURT.—

''(A) IN GENERAL.—If a court in a civil action, upon motion of a party to the action, finds that it is more likely than not that a person who participated in a matter or proceeding before the Office knowingly and intentionally deceived the Office by concealing material information or by submitting false material information in such matter or proceeding, the court shall order the patent to be made the subject of a reissue application under section 251. The motion shall set forth any basis upon which the moving party contends 1 or more claims of the patent are invalid in view of information relating to the conduct at issue not previously considered by the Director. The decision on a motion filed under this paragraph shall not be subject to appellate review.

''(B) MATERIAL INFORMATION.—For purposes of this paragraph, information is material if it is not part of the record or cumulative to information in the record and either establishes that a patent claim is not patentable or refutes a position that the applicant or patent owner took in response to a rejection of the claim as unpatentable.

''(2) TIMING OF MOTION.—A motion described under paragraph (1) shall be filed promptly after discovery of the conduct at issue by the moving party.

''(3) REQUIRED SPECIFICITY IN COURT ORDER.—An order issued by a court under paragraph (1) shall contain findings of fact setting out with specificity the information relating to the conduct at issue not previously considered by the Director and upon which the court based its order. The findings of fact shall not be used by a court except as provided under this paragraph.

''(4) STAYS.—A court shall not stay a civil action by reason of commencement of a reissue proceeding that was authorized to be filed under this section unless—

''(A) the Director in a notification under section 132 makes a rejection of 1 or more claims of the patent;

''(B) an allegation of infringement remains in the civil action for at least 1 of the claims rejected; and

''(C) the court determines that the interests of justice require a stay of the action.

''(5) JUDGMENT THAT PATENT IS UNENFORCEABLE.—If a patentee involved in a civil action in which an order under this subsection is issued does not seek reissue of the patent within 2 months of such order, the court shall enter judgment that the patent is unenforceable.

''(c) PERMITTED REISSUE BY PATENTEE.—A patentee may request reissue of a patent on the basis of information not previously considered by the Director in connection with a patent, or the efforts to obtain such patent, by filing an application for reissue under section 251.

''(d) REQUIRED STATEMENT, AMENDED CLAIMS.—In any application for reissue of a patent authorized to be filed under this section, the patentee shall provide a statement to the Director containing the information described in subsections (b) and (c). The reissue application may be filed with the omission of 1 or more claims of the original patent and with a single substitute claim of equivalent or narrower scope replacing any omitted claim of the original patent. For a reissue application authorized to be filed under subsection (c), the statement shall identify with specificity the issues of patentability arising from the information and the basis upon which the claims in the reissue application are believed by the applicant to be patentable notwithstanding the information.

''(e) CONDUCT OF REISSUE PROCEEDING.—

''(1) INITIAL ACTION.—The Director shall provide at least 1 of the notifications under section 132 or a notice of allowance under section 151 not later than 3 months after the filing date of an application for reissue authorized to be filed under this section.

''(2) SCOPE OF PROCEEDING.—

''(A) IN GENERAL.—A reissue proceeding authorized to be filed under this section shall, unless substitute claims are submitted, address only whether original claims continue to be patentable after consideration of the additional information provided by the applicant for reissue pursuant to subsection (d) in combination with information already of record in the original patent.

''(B) ISSUES OF PATENTABILITY.—If the Director determines during a reissue proceeding authorized to be filed under this section that 1 or more of the original claims of the patent cannot be reissued and the time for appeal of such determination has expired or any appeal proceeding related to such determination has terminated, the Director shall notify the patentee of the surrender of the patent in connection with the termination of the reissue proceeding, subject to the patentee's right to obtain a reissue for claims the Director determines to be patentable.

''(3) DURATION OF PROCEEDING.—For a reissue application authorized to be filed under subsection (b), a final decision on all issues of patentability shall be made by the Director within 1 year from the date of the initial notification under paragraph (1), subject to the right of the patentee to appeal under section 134.

''(4) TERMINATION OF PROCEEDING.—If the Director determines that all of the original claims continue to be patentable, the Director shall terminate the proceeding without the surrender of the original patent.

''(5) PROCEDURE AND APPEALS.—

''(A) IN GENERAL.—A reissue application authorized to be filed under this section may not be abandoned by the applicant or otherwise terminated without surrender of the original patent, except as provided under this section, and shall be conducted as an ex parte matter before the Office.

''(B) SPECIAL PROCEDURES.—Subject to subsection (d), no amendments other than an amendment presenting a single substitute claim of equivalent or narrower scope for each canceled claim in the first reply to the first action under section 132 may be made during the examination of a reissue application authorized to be filed under this section. The Director may amend pending claims at any time on agreement to a change proposed by the Director to the applicant. The Director may refuse to admit any paper filed after a second notification under section 132.

''(C) CONTINUING APPLICATIONS BARRED.—No application shall be entitled to the benefit of

the filing date of an application authorized to be filed under this section.

''(D) EXPANDED EXAMINATION.—The Director may consider additional information introduced by the Director if substitute claims are presented.

''(E) APPEAL.—An applicant in a reissue application authorized to be filed by this section dissatisfied with a decision by the Patent Trial and Appeal Board may appeal only under the provisions of sections 141 though 144.

''(f) LIMITATION ON ENLARGING SCOPE OF CLAIMS.—No patent may be reissued based upon the filing of a reissue application authorized to be filed under this section that enlarges the scope of the claims of the original patent.

''(g) SANCTIONS.—Except as provided under subsection (h), if a reissue proceeding authorized under this section concludes without the surrender of the original patent or with the grant of 1 or more reissued patents, no further sanctions may be imposed against the patentee in connection with the original patent or the reissued patents based upon misconduct arising from the concealment of information subsequently provided, or the misrepresentation of information subsequently corrected in the statement provided under subsection (d).

''(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(1) to preclude the imposition of sanctions based upon criminal or antitrust laws (including section 1001(a) of title 18, the first section of the Clayton Act, and section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition);

''(2) to limit the authority of the Director to investigate issues of possible misconduct and impose sanctions for misconduct in connection with matters or proceedings before the Office; or

''(3) to limit the authority of the Director to promulgate regulations under chapter 3 relating to sanctions for misconduct by representatives practicing before the Office.

''§ 299. Civil sanctions for misconduct before the Office

''(a) INFORMATION RELATING TO POSSIBLE MISCONDUCT.—The Director shall provide by regulation procedures for receiving and reviewing information indicating that parties to a matter or proceeding before the Office may have engaged in misconduct in connection with such matter or proceeding.

''(b) ADMINISTRATIVE PROCEEDING.—

''(1) PROBABLE CAUSE.—The Director shall determine, based on information received and reviewed under subsection (a), if there is probable cause to believe that 1 or more individuals or parties engaged in misconduct consisting of intentionally deceptive conduct of a material nature in connection with a matter or proceeding before the Office. A determination of probable cause by the Director under this paragraph shall be final and shall not be reviewable on appeal or otherwise.

''(2) DETERMINATION.—If the Director finds probable cause under paragraph (1), the Director shall, after notice and an opportunity for a hearing, and not later than 1 year after the date of such finding, determine whether misconduct consisting of intentionally deceptive conduct of a material nature in connection with the applicable matter or proceeding before the Office has occurred. The proceeding to determine whether such misconduct occurred shall be before an individual designated by the Director.

''(3) CIVIL SANCTIONS.—

''(A) IN GENERAL.—If the Director determines under paragraph (2) that misconduct has occurred, the Director may levy a civil penalty against the party that committed such misconduct.

''(B) FACTORS.—In establishing the amount of any civil penalty to be levied under subparagraph (A), the Director shall consider—

''(i) the materiality of the misconduct;

''(ii) the impact of the misconduct on a decision of the Director regarding a patent, proceeding, or application; and

''(iii) the impact of the misconduct on the integrity of matters or proceedings before the Office.

''(C) SANCTIONS.—A civil penalty levied under subparagraph (A) may consist of—

''(i) a penalty of up to $150,000 for each act of misconduct;

''(ii) in the case of a finding of a pattern of misconduct, a penalty of up to $1,000,000; or

''(iii) in the case of a finding of exceptional misconduct establishing that an application for a patent amounted to a fraud practiced by or at the behest of a real party in interest of the application—

''(I) a determination that 1 or more claims of the patent is unenforceable; or

''(II) a penalty of up to $10,000,000.

''(D) JOINT AND SEVERAL LIABILITY.—Any party found to have been responsible for misconduct in connection with any matter or proceeding before the Office under this section may be jointly and severally liable for any civil penalty levied under subparagraph (A).

''(E) DEPOSIT WITH THE TREASURY.—Any civil penalty levied under subparagraph (A) shall—

''(i) accrue to the benefit of the United States Government; and

''(ii) be deposited under 'Miscellaneous Receipts' in the United States Treasury.

''(F) AUTHORITY TO BRING ACTION FOR RECOVERY OF PENALTIES.—

''(i) IN GENERAL.—If any party refuses to pay or remit to the United States Government a civil penalty levied under this paragraph, the United States may recover such amounts in a civil action brought by the United States Attorney General on behalf of the Director in the United States District Court for the Eastern District of Virginia.

''(ii) INJUNCTIONS.—In any action brought under clause (i), the United States District Court for the Eastern District of Virginia may, as the court determines appropriate, issue a mandatory injunction incorporating the relief sought by the Director.

''(4) COMBINED PROCEEDINGS.—If the misconduct that is the subject of a proceeding under this subsection is attributed to a practitioner who practices before the Office, the Director may combine such proceeding with any other disciplinary proceeding under section 32 of this title.

''(c) OBTAINING EVIDENCE.—

''(1) IN GENERAL.—During the period in which an investigation for a finding of probable cause or for a determination of whether misconduct occurred in connection with any matter or proceeding before the Office is being conducted, the Director may require, by subpoena issued by the Director, persons to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

''(2) ADDITIONAL AUTHORITY.—For the purposes of carrying out this section, the Director—

''(A) shall have access to, and the right to copy, any document, paper, or record, the Director determines pertinent to any investigation or determination under this section, in the possession of any person;

''(B) may summon witnesses, take testimony, and administer oaths;

''(C) may require any person to produce books or papers relating to any matter pertaining to such investigation or determination; and

''(D) may require any person to furnish in writing, in such detail and in such form as the Director may prescribe, information in their possession pertaining to such investigation or determination.

''(3) WITNESSES AND EVIDENCE.—

''(A) IN GENERAL.—The Director may require the attendance of any witness and the production of any documentary evidence from any place in the United States at any designated place of hearing.

''(B) CONTUMACY.—

''(i) ORDERS OF THE COURT.—In the case of contumacy or failure to obey a subpoena issued under this subsection, any appropriate United States district court or territorial court of the United States may issue an order requiring such person—

''(I) to appear before the Director;

''(II) to appear at any other designated place to testify; and

''(III) to produce documentary or other evidence.

''(ii) FAILURE TO OBEY.—Any failure to obey an order issued under this subparagraph court may be punished by the court as a contempt of that court.

''(4) DEPOSITIONS.—

''(A) IN GENERAL.—In any proceeding or investigation under this section, the Director may order a person to give testimony by deposition.

''(B) REQUIREMENTS OF DEPOSITION.—

''(i) OATH.—A deposition may be taken before an individual designated by the Director and having the power to administer oaths.

''(ii) NOTICE.—Before taking a deposition, the Director shall give reasonable notice in writing to the person ordered to give testimony by deposition under this paragraph. The notice shall state the name of the witness and the time and place of taking the deposition.

''(iii) WRITTEN TRANSCRIPT.—The testimony of a person deposed under this paragraph shall be under oath. The person taking the deposition shall prepare, or cause to be prepared, a written transcript of the testimony taken. The transcript shall be subscribed by the deponent. Each deposition shall be filed promptly with the Director.

''(d) APPEAL.—

''(1) IN GENERAL.—A party may appeal a determination under subsection (b)(2) that misconduct occurred in connection with any matter or proceeding before the Office to the United States Court of Appeals for the Federal Circuit.

''(2) NOTICE TO USPTO.—A party appealing under this subsection shall file in the Office a written notice of appeal directed to the Director, within such time after the date of the determination from which the appeal is taken as the Director prescribes, but in no case less than 60 days after such date.

''(3) REQUIRED ACTIONS OF THE DIRECTOR.—In any appeal under this subsection, the Director shall transmit to the United States Court of Appeals for the Federal Circuit a certified list of the documents comprising the record in the determination proceeding. The court may request that the Director forward the original or certified copies of such documents during the pendency of the appeal. The court shall, before hearing the appeal, give notice of the time and place of the hearing to the Director and the parties in the appeal.

''(4) AUTHORITY OF THE COURT.—The United States Court of Appeals for the Federal Circuit shall have power to enter, upon the pleadings and evidence of record at the time the determination was made, a judgment affirming, modifying, or setting aside, in whole or in part, the determination, with or without remanding the case for a rehearing. The

court shall not set aside or remand the determination made under subsection (b)(2) unless there is not substantial evidence on the record to support the findings or the determination is not in accordance with law. Any sanction levied under subsection (b)(3) shall not be set aside or remanded by the court, unless the court determines that such sanction constitutes an abuse of discretion of the Director.

''(e) DEFINITION.—For purposes of this section, the term 'person' means any individual, partnership, corporation, company, association, firm, partnership, society, trust, estate, cooperative, association, or any other entity capable of suing and being sued in a court of law.''.

(b) SUSPENSION OR EXCLUSION FROM PRACTICE.—Section 32 of title 35, United States Code, is amended—

(1) by striking ''The Director may'' and inserting the following:

''(a) IN GENERAL.—The Director may''; and

(2) by adding at the end the following:

''(b) TOLLING OF TIME PERIOD.—The time period for instituting a proceeding under subsection (a), as provided in section 2462 of title 28, shall not begin to run where fraud, concealment, or misconduct is involved until the information regarding fraud, concealment, or misconduct is made known in the manner set forth by regulation under section 2(b)(2)(D) to an officer or employee of the United States Patent and Trademark Office designated by the Director to receive such information.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided under paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) INAPPLICABILITY TO PENDING LITIGATION.—Subsections (a) and (b) of section 298 of title 35, United States Code (as added by the amendment made by subsection (a) of this section), shall apply to any civil action filed on or after the date of the enactment of this Act.

SEC. 12. AUTHORITY OF THE DIRECTOR OF THE PATENT AND TRADEMARK OFFICE TO ACCEPT LATE FILINGS.

(a) AUTHORITY.—Section 2 of title 35, United States Code, is amended by adding at the end the following:

''(e) DISCRETION TO ACCEPT LATE FILINGS IN CERTAIN CASES OF UNINTENTIONAL DELAY.—

''(1) IN GENERAL.—The Director may accept any application or other filing made by—

''(A) an applicant for, or owner of, a patent after the applicable deadline set forth in this title with respect to the application or patent; or

''(B) an applicant for, or owner of, a mark after the applicable deadline under the Trademark Act of 1946 with respect to the registration or other filing of the mark,

to the extent that the Director considers appropriate, if the applicant or owner files a petition within 30 days after such deadline showing, to the satisfaction of the Director, that the delay was unintentional.

''(2) TREATMENT OF DIRECTOR'S ACTIONS ON PETITION.—If the Director has not made a determination on a petition filed under paragraph (1) within 60 days after the date on which the petition is filed, the petition shall be deemed to be denied. A decision by the Director not to exercise, or a failure to exercise, the discretion provided by this subsection shall not be subject to judicial review.

''(3) OTHER PROVISIONS NOT AFFECTED.—This subsection shall not apply to any other provision of this title, or to any provision of the Trademark Act of 1946, that authorizes the Director to accept, under certain circumstances, applications or other filings made after a statutory deadline or to statutory deadlines that are required by reason of the obligations of the United States under any treaty.

''(4) DEFINITION.—In this subsection, the term 'Trademark Act of 1946' means the Act entitled 'An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946 or the Lanham Act).''.

(b) APPLICABILITY.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to any application or other filing that—

(A) is filed on or after the date of the enactment of this Act; or

(B) on such date of enactment, is pending before the Director or is subject to judicial review.

(2) TREATMENT OF PENDING APPLICATIONS AND FILINGS.—In the case of any application or filing described in paragraph (1)(B), the 30-day period prescribed in section 2(e)(1) of title 35, United States Code, as added by subsection (a) of this section, shall be deemed to be the 30-day period beginning on the date of the enactment of this Act.

(c) CONVERSION OF DAY-BASED DEADLINES INTO MONTH-BASED DEADLINES.—

(1) Sections 141, 156(d)(2)(A), 156(d)(2)(B)(ii), 156(d)(5)(C), and 282 of title 35, United States Code, are each amended by striking ''30 days'' or ''thirty days'' each place that term appears and inserting ''1 month''.

(2) Sections 135(c), 142, 145, 146, 156(d)(2)(B)(ii), 156(d)(5)(C), and the matter preceding clause (i) of section 156(d)(2)(A) of title 35, United States Code, are each amended by striking ''60 days'' or ''sixty days'' each place that term appears and inserting ''2 months''.

(3) The matter preceding subparagraph (A) of section 156(d)(1) and sections 156(d)(2)(B)(ii) and 156(d)(5)(E) of title 35, United States Code, are each amended by striking ''60-day'' or ''sixty-day'' each place that term appears and inserting ''2-month''.

(4) Sections 155 and 156(d)(2)(B)(i) of title 35, United States Code, are each amended by striking ''90 days'' or ''ninety days'' each place that term appears and inserting ''3 months''.

(5) Sections 154(b)(4)(A) and 156(d)(2)(B)(i) of title 35, United States Code, are each amended by striking ''180 days'' each place that term appears and inserting ''6 months''.

SEC. 13. LIMITATION ON DAMAGES AND OTHER REMEDIES WITH RESPECT TO PATENTS FOR METHODS IN COMPLIANCE WITH CHECK IMAGING METHODS.

(a) LIMITATION.—Section 287 of title 35, United States Code, is amended by adding at the end the following:

''(d)(1) With respect to the use by a financial institution of a check collection system that constitutes an infringement under subsection (a) or (b) of section 271, the provisions of sections 281, 283, 284, and 285 shall not apply against the financial institution with respect to such a check collection system.

''(2) For the purposes of this subsection—

''(A) the term 'check' has the meaning given under section 3(6) of the Check Clearing for the 21st Century Act (12 U.S.C. 5002(6));

''(B) the term 'check collection system' means the use, creation, transmission, receipt, storing, settling, or archiving of truncated checks, substitute checks, check images, or electronic check data associated with or related to any method, system, or process that furthers or effectuates, in whole or in part, any of the purposes of the Check Clearing for the 21st Century Act (12 U.S.C. 5001 et seq.);

''(C) the term 'financial institution' has the meaning given under section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809);

''(D) the term 'substitute check' has the meaning given under section 3(16) of the Check Clearing for the 21st Century Act (12 U.S.C. 5002(16)); and

''(E) the term 'truncate' has the meaning given under section 3(18) of the Check Clearing for the 21st Century Act (12 U.S.C. 5002(18)).

''(3) This subsection shall not limit or affect the enforcement rights of the original owner of a patent where such original owner—

''(A) is directly engaged in the commercial manufacture and distribution of machinery or the commercial development of software; and

''(B) has operated as a subsidiary of a bank holding company, as such term is defined under section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)), prior to July 19, 2007.

''(4) A party shall not manipulate its activities, or conspire with others to manipulate its activities, for purposes of establishing compliance with the requirements of this subsection, including, without limitation, by granting or conveying any rights in the patent, enforcement of the patent, or the result of any such enforcement.''.

(b) TAKINGS.—If this section is found to establish a taking of private property for public use without just compensation, this section shall be null and void. The exclusive remedy for such a finding shall be invalidation of this section. In the event of such invalidation, for purposes of application of the time limitation on damages in section 286 of title 35, United States Code, any action for patent infringement or counterclaim for infringement that could have been filed or continued but for this section, shall be considered to have been filed on the date of enactment of this Act or continued from such date of enactment.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any civil action for patent infringement pending or filed on or after the date of enactment of this Act.

SEC. 14. PATENT AND TRADEMARK OFFICE FUNDING.

(a) DEFINITIONS.—In this section:

(1) DIRECTOR.—The term ''Director'' means the Director of the United States Patent and Trademark Office.

(2) FUND.—The term ''Fund'' means the public enterprise revolving fund established under subsection (c).

(3) OFFICE.—The term ''Office'' means the United States Patent and Trademark Office.

(4) TRADEMARK ACT OF 1946.—The term ''Trademark Act of 1946'' means an Act entitled ''Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes'', approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the ''Trademark Act of 1946'' or the ''Lanham Act'').

(5) UNDERSECRETARY.—The term ''Undersecretary'' means the Under Secretary of Commerce for Intellectual Property.

(b) FUNDING.—

(1) IN GENERAL.—Section 42 of title 35, United States Code, is amended—

(A) in subsection (b), by striking ''Patent and Trademark Office Appropriation Account'' and inserting ''United States Patent and Trademark Office Public Enterprise Fund''; and

(B) in subsection (c), in the first sentence—

(i) by striking ''To the extent'' and all that follows through ''fees'' and inserting ''Fees''; and

(ii) by striking ''shall be collected by and shall be available to the Director'' and inserting ''shall be collected by the Director and shall be available until expended''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the later of—

(A) October 1, 2008; or

(B) the date of enactment of this Act.

(c) USPTO REVOLVING FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the ''United States Patent and Trademark Office Public Enterprise Fund''. Any amounts in the Fund shall be available for use by the Director without fiscal year limitation.

(2) DERIVATION OF RESOURCES.—There shall be deposited into the Fund—

(A) any fees collected under sections 41, 42, and 376 of title 35, United States Code, provided that notwithstanding any other provision of law, if such fees are collected by, and payable to, the Director, the Director shall transfer such amounts to the Fund; and

(B) any fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113).

(3) EXPENSES.—Amounts deposited into the Fund under paragraph (2) shall be available, without fiscal year limitation, to cover—

(A) all expenses to the extent consistent with the limitation on the use of fees set forth in section 42(c) of title 35, United States Code, including all administrative and operating expenses, determined in the discretion of the Under Secretary to be ordinary and reasonable, incurred by the Under Secretary and the Director for the continued operation of all services, programs, activities, and duties of the Office, as such services, programs, activities, and duties are described under—

(i) title 35, United States Code; and

(ii) the Trademark Act of 1946; and

(B) all expenses incurred pursuant to any obligation, representation, or other commitment of the Office.

(4) CUSTODIANS OF MONEY.—Notwithstanding section 3302 of title 31, United States Code, any funds received by the Director and transferred to Fund, or any amounts directly deposited into the Fund, may be used—

(A) to cover the expenses described in paragraph (3); and

(B) to purchase obligations of the United States, or any obligations guaranteed by the United States.

(d) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Under Secretary and the Director shall submit a report to Congress which shall—

(1) summarize the operations of the Office for the preceding fiscal year, including financial details and staff levels broken down by each major activity of the Office;

(2) detail the operating plan of the Office, including specific expense and staff needs for the upcoming fiscal year;

(3) describe the long term modernization plans of the Office;

(4) set forth details of any progress towards such modernization plans made in the previous fiscal year; and

(5) include the results of the most recent audit carried out under subsection (e).

(e) ANNUAL SPENDING PLAN.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the Director shall notify the Committees on Appropriations of both Houses of Congress of the plan for the obligation and expenditure of the total amount of the funds for that fiscal year in accordance with section 605 of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109–108; 119 Stat. 2334).

(2) CONTENTS.—Each plan under paragraph (1) shall—

(A) summarize the operations of the Office for the current fiscal year, including financial details and staff levels with respect to major activities; and

(B) detail the operating plan of the Office, including specific expense and staff needs, for the current fiscal year.

(f) AUDIT.—The Under Secretary shall, on an annual basis, provide for an independent audit of the financial statements of the Office. Such audit shall be conducted in accordance with generally acceptable accounting procedures.

(g) BUDGET.—In accordance with section 9103 of title 31, United States Code, the Fund shall prepare and submit each year to the President a business-type budget in a way, and before a date, the President prescribes by regulation for the budget program.

SEC. 15. TECHNICAL AMENDMENTS.

(a) JOINT INVENTIONS.—Section 116 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking ''When'' and inserting ''(a) JOINT INVENTIONS.—When'';

(2) in the second paragraph, by striking ''If a joint inventor'' and inserting ''(b) OMITTED INVENTOR.—If a joint inventor''; and

(3) in the third paragraph—

(A) by striking ''Whenever'' and inserting ''(c) CORRECTION OF ERRORS IN APPLICATION.—Whenever''; and

(B) by striking ''and such error arose without any deceptive intent on his part,''.

(b) FILING OF APPLICATION IN FOREIGN COUNTRY.—Section 184 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''Except when'' and inserting ''(a) FILING IN FOREIGN COUNTRY.—Except when''; and

(B) by striking ''and without deceptive intent'';

(2) in the second paragraph, by striking ''The term'' and inserting ''(b) APPLICATION.—The term''; and

(3) in the third paragraph, by striking ''The scope'' and inserting ''(c) SUBSEQUENT MODIFICATIONS, AMENDMENTS, AND SUPPLEMENTS.—The scope''.

(c) FILING WITHOUT A LICENSE.—Section 185 of title 35, United States Code, is amended by striking ''and without deceptive intent''.

(d) REISSUE OF DEFECTIVE PATENTS.—Section 251 of title 35, United States Code, is amended—

(1) in the first paragraph—

(A) by striking ''Whenever'' and inserting ''(a) IN GENERAL.—Whenever reissue of any patent is authorized under section 298 or''; and

(B) by striking ''without deceptive intention'';

(2) in the second paragraph, by striking ''The Director'' and inserting ''(b) MULTIPLE REISSUED PATENTS.—The Director'';

(3) in the third paragraph, by striking ''The provision'' and inserting ''(c) APPLICABILITY OF THIS TITLE.—The provisions''; and

(4) in the last paragraph, by striking ''No reissued patent'' and inserting ''(d) REISSUE PATENT ENLARGING SCOPE OF CLAIMS.—No reissued patent''.

(e) EFFECT OF REISSUE.—Section 253 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking ''Whenever, without deceptive intention'' and inserting ''(a) IN GENERAL.—Whenever''; and

(2) in the second paragraph, by striking ''in like manner'' and inserting ''(b) ADDITIONAL DISCLAIMER OR DEDICATION.—In the manner set forth in subsection (a),''.

(f) CORRECTION OF NAMED INVENTOR.—Section 256 of title 35, United States Code, is amended—

(1) in the first paragraph, by striking ''Whenever'' and inserting ''(a) CORRECTION.—Whenever''; and

(2) in the second paragraph, by striking ''The error'' and inserting ''(b) PATENT VALID IF ERROR CORRECTED.—The error''.

(g) PRESUMPTION OF VALIDITY.—Section 282 of title 35, United States Code, is amended—

(1) in the first undesignated paragraph, by striking ''A patent'' and inserting ''(a) IN GENERAL.—A patent'';

(2) in the second undesignated paragraph, by striking ''The following'' and inserting ''(b) DEFENSES.—The following''; and

(3) in the third undesignated paragraph, by striking ''In actions'' and inserting ''(c) NOTICE OF ACTIONS; ACTIONS DURING EXTENSION OF PATENT TERM.—In actions''.

(h) ACTION FOR INFRINGEMENT.—Section 288 of title 35, United States Code, is amended by striking '', without any deceptive intention,''.

SEC. 16. EFFECTIVE DATE; RULE OF CONSTRUCTION.

(a) EFFECTIVE DATE.—Except as otherwise provided in this Act, the provisions of this Act shall take effect 12 months after the date of the enactment of this Act and shall apply to any patent issued on or after that effective date.

(b) SPECIAL PROVISIONS RELATING TO DETERMINATIONS OF VALIDITY AND PATENTABILITY.—

(1) IN GENERAL.—The amendments made by section 2 shall apply to any application for a patent and any patent issued pursuant to such an application that at any time—

(A) contained a claim to a claimed invention that has an effective filing date, as such date is defined under section 100(h) of title 35, United States Code, 1 year or more after the date of the enactment of this Act;

(B) asserted a claim to a right of priority under section 119, 365(a), or 365(b) of title 35, United States Code, to any application that was filed 1 year or more after the date of the enactment of this Act; or

(C) made a specific reference under section 120, 121, or 365(c) of title 35, United States Code, to any application to which the amendments made by section 2 otherwise apply under this subsection.

(2) PATENTABILITY.—For any application for patent and any patent issued pursuant to such an application to which the amendments made by section 2 apply, no claim asserted in such application shall be patentable or valid unless such claim meets the conditions of patentability specified in section 102(g) of title 35, United States Code, as such conditions were in effect on the day prior to the date of enactment of this Act, if the application at any time—

(A) contained a claim to a claimed invention that has an effective filing date as defined in section 100(h) of title 35, United States Code, earlier than 1 year after the date of the enactment of this Act;

(B) asserted a claim to a right of priority under section 119, 365(a), or 365(b) of title 35, United States Code, to any application that was filed earlier than 1 year after the date of the enactment of this Act; or

(C) made a specific reference under section 120, 121, or 365(c) of title 35, United States Code, with respect to which the requirements of section 102(g) applied.

(3) VALIDITY OF PATENTS.—For the purpose of determining the validity of a claim in any patent or the patentability of any claim in a nonprovisional application for patent that is made before the effective date of the amendments made by sections 2 and 3, other than in an action brought in a court before the date of the enactment of this Act—

(A) the provisions of subsections (c), (d), and (f) of section 102 of title 35, United States Code, that were in effect on the day

prior to the date of enactment of this Act shall be deemed to be repealed;

(B) the amendments made by section 3 of this Act shall apply, except that a claim in a patent that is otherwise valid under the provisions of section 102(f) of title 35, United States Code, as such provision was in effect on the day prior to the date of enactment of this Act, shall not be invalidated by reason of this paragraph; and

(C) the term ''in public use or on sale'' as used in section 102(b) of title 35, United States Code, as such section was in effect on the day prior to the date of enactment of this Act shall be deemed to exclude the use, sale, or offer for sale of any subject matter that had not become available to the public.

(4) CONTINUITY OF INTENT UNDER THE CREATE ACT.—The enactment of section 102(b)(3) of title 35, United States Code, under section (2)(b) of this Act is done with the same intent to promote joint research activities that was expressed, including in the legislative history, through the enactment of the Cooperative Research and Technology Enhancement Act of 2004 (Public Law 108–453; the ''CREATE Act''), the amendments of which are stricken by section 2(c) of this Act. The United States Patent and Trademark Office shall administer section 102(b)(3) of title 35, United States Code, in a manner consistent with the legislative history of the CREATE Act that was relevant to its administration by the United States Patent and Trademark Office.

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

S. 3601. A bill to authorize funding for the National Crime Victim Law Institute to provide support for victims of crime under Crime Victims Legal Assistance Programs as a part of the Victims of Crime Act of 1984; to the Committee on the Judiciary.

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

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

S. 3601

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

SECTION 1. REAUTHORIZATION.

Section 103(b) of the Justice for All Act of 2004 (Public Law 108-405; 118 Stat. 2264) is amended in paragraphs (1) through (5) by striking ''2006, 2007, 2008, and 2009'' each place it appears and inserting ''2010, 2011, 2012, and 2013''.

By Mr. KYL:

S. 3602. A bill to authorize funding for the National Crime Victim Law Institute to provide support for victims of crime under Crime Victims Legal Assistance Programs as a part of the Victims of Crime Act of 1984; to the Committee on the Judiciary.

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

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

S. 3602

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

SECTION 1. REAUTHORIZATION.

Section 103(b) of the Justice for All Act of 2004 (Public Law 108–405; 118 Stat. 2264) is amended—

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

''(1) $5,000,000 for each of fiscal years 2010, 2011, 2012, 2013, and 2014 to the Office for Victims of Crime of the Department of Justice for United States Attorneys Offices for Victim/Witnesses Assistance Programs only for victim advocates and their administrative support to provide direct services to victims of crimes;''; and

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) $500,000 for each of the fiscal years 2010, 2011, 2012, 2013, and 2014 to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of organizations as designated under paragraph (4);

''(4) $11,000,000 for each of the fiscal years 2010, 2011, 2012, 2013, and 2014, to the Office for Victims of Crime of the Department of Justice, for the National Crime Victim Law Institute to provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; and''.

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

S. 3603. A bill to promote conservation and provide sensible development in Carson City, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, I rise today to reintroduce the Carson City Vital Community Act of 2008 for myself and Senator ENSIGN. We originally introduced this bill on July 31, 2008. Since then we have sought and received important feedback on the legislation. Carson City, numerous citizens, our federal land agencies, and committee staff have all brought important ideas to the table. We are reintroducing this legislation today so that anyone who has an interest in this legislation can see how the bill has improved as result of the input we have received.

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

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

S. 3603

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 ''Carson City Vital Community Act of 2008''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) CITY.—The term ''City'' means Carson City Consolidated Municipality, Nevada.

(2) MAP.—The term ''Map'' means the map entitled ''Carson City, Nevada Area'', dated September 12, 2008, and on file and available for public inspection in the appropriate offices of—

(A) the Bureau of Land Management;

(B) the Forest Service; and

(C) the City.

(3) SECRETARY.—The term ''Secretary'' means—

(A) with respect to land in the National Forest System, the Secretary of Agriculture, acting through the Chief of the Forest Service; and

(B) with respect to other Federal land, the Secretary of the Interior.

(4) SECRETARIES.—The term ''Secretaries'' means the Secretary of Agriculture and the Secretary of the Interior, acting jointly.

(5) TRIBE.—The term ''Tribe'' means the Washoe Tribe of Nevada and California, which is a federally recognized Indian tribe.

TITLE I—PUBLIC CONVEYANCES

SEC. 101. CONVEYANCES OF FEDERAL LAND AND CITY LAND.

(a) IN GENERAL.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), if the City offers to convey to the United States title to the non-Federal land described in subsection (b)(1) that is acceptable to the Secretary of Agriculture—

(1) the Secretary shall accept the offer; and

(2) not later than 180 days after the date on which the Secretary receive acceptable title to the non-Federal land described in subsection (b)(1), the Secretaries shall convey to the City, subject to valid existing rights and for no consideration, except as provided in subsection (c)(1), all right, title, and interest of the United States in and to the Federal land (other than any easement reserved under subsection (c)(2)) or interest in land described in subsection (b)(2).

(b) DESCRIPTION OF LAND.—

(1) NON-FEDERAL LAND.—The non-Federal land referred to in subsection (a) is the approximately 2,264 acres of land administered by the City and identified on the Map as ''To U.S. Forest Service''.

(2) FEDERAL LAND.—The Federal land referred to in subsection (a)(2) is—

(A) the approximately 935 acres of Forest Service land identified on the Map as ''To Carson City for Natural Areas'';

(B) the approximately 3,604 acres of Bureau of Land Management land identified on the Map as ''Silver Saddle Ranch and Carson River Area'';

(C) the approximately 1,862 acres of Bureau of Land Management land identified on the Map as ''To Carson City for Parks and Public Purposes''; and

(D) the approximately 75 acres of City land in which the Bureau of Land Management has a reversionary interest that is identified on the Map as ''Reversionary Interest of the United States Released''.

(c) CONDITIONS.—

(1) CONSIDERATION.—Before the conveyance of the 62–acre Bernhard parcel to the City, the City shall deposit in the special account established by section 202(b)(1) an amount equal to 25 percent of the difference between—

(A) the amount for which the Bernhard parcel was purchased by the City on July 18, 2001; and

(B) the amount for which the Bernhard parcel was purchased by the Secretary on March 24, 2006.

(2) CONSERVATION EASEMENT.—As a condition of the conveyance of the land described in subsection (b)(2)(B), the Secretary, in consultation with Carson City and affected local interests, shall reserve a perpetual conservation easement to the land to protect, preserve, and enhance the conservation values of the land, consistent with subsection (d)(2).

(3) COSTS.—Any costs relating to the conveyance under subsection (a), including any costs for surveys and other administrative costs, shall be paid by the recipient of the land being conveyed.

(d) USE OF LAND.—

(1) NATURAL AREAS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the land described in subsection (b)(2)(A) shall be managed by the City to maintain undeveloped open space and to preserve the natural characteristics of the land in perpetuity.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the City may—

(i) conduct projects on the land to reduce fuels;

(ii) construct and maintain trails, trailhead facilities, and any infrastructure on the land that is required for municipal water and flood management activities; and

(iii) maintain or reconstruct any improvements on the land that are in existence on the date of enactment of this Act.

(2) SILVER SADDLE RANCH AND CARSON RIVER AREA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the land described in subsection (b)(2)(B) shall—

(i) be managed by the City to protect and enhance the Carson River, the floodplain and surrounding upland, and important wildlife habitat; and

(ii) be used for undeveloped open space, passive recreation, customary agricultural practices, and wildlife protection.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the City may—

(i) construct and maintain trails and trailhead facilities on the land;

(ii) conduct projects on the land to reduce fuels;

(iii) maintain or reconstruct any improvements on the land that are in existence on the date of enactment of this Act; and

(iv) allow the use of motorized vehicles on designated roads, trails, and areas in the south end of Prison Hill.

(3) PARKS AND PUBLIC PURPOSES.—The land described in subsection (b)(2)(C) shall be managed by the City for—

(A) undeveloped open space; and

(B) recreation or other public purposes consistent with the Act of June 14, 1926 (commonly known as the ''Recreation and Public Purposes Act'') (43 U.S.C. 869 et seq.).

(4) REVERSIONARY INTEREST.—

(A) RELEASE.—The reversionary interest described in subsection (b)(2)(D) shall terminate on the date of enactment of this Act.

(B) CONVEYANCE BY CITY.—

(i) IN GENERAL.—If the City sells, leases, or otherwise conveys any portion of the land described in subsection (b)(2)(D), the sale, lease, or conveyance of land shall be—

(I) through a competitive bidding process; and

(II) except as provided in clause (ii), for not less than fair market value.

(ii) CONVEYANCE TO GOVERNMENT OR NONPROFIT.—A sale, lease, or conveyance of land described in subsection (b)(2)(D) to the Federal Government, a State government, a unit of local government, or a nonprofit organization shall be for consideration in an amount equal to the price established by the Secretary of the Interior under section 2741 of title 43, Code of Federal Regulation (or successor regulations).

(iii) DISPOSITION OF PROCEEDS.—The gross proceeds from the sale, lease, or conveyance of land under clause (i) shall be distributed in accordance with section 202(a).

(e) REVERSION.—If land conveyed under subsection (a) is used in a manner that is inconsistent with the uses described in paragraph (1), (2), (3), or (4) of subsection (d), the land shall, at the discretion of the Secretary, revert to the United States.

(f) MISCELLANEOUS PROVISIONS.—

(1) IN GENERAL.—On conveyance of the non-Federal land under subsection (a) to the Secretary of Agriculture, the non-Federal land shall—

(A) become part of the Humboldt-Toiyabe National Forest; and

(B) be administered in accordance with the laws (including the regulations) and rules generally applicable to the National Forest System.

(2) MANAGEMENT PLAN.—The Secretary of Agriculture, in consultation with the City and other interested parties, may develop and implement a management plan for National Forest System land that ensures the protection and stabilization of the National Forest System land to minimize the impacts of flooding on the City.

(g) CONVEYANCE TO BUREAU OF LAND MANAGEMENT.—

(1) IN GENERAL.—If the City offers to convey to the United States title to the non-Federal land described in paragraph (2) that is acceptable to the Secretary of the Interior, the land shall, at the discretion of the Secretary, be conveyed to the United States.

(2) DESCRIPTION OF LAND.—The non-Federal land referred to in paragraph (1) is the approximately 136 acres of land administered by the City and identified on the Map as ''To Bureau of Land Management''.

(3) COSTS.—Any costs relating to the conveyance under paragraph (1), including any costs for surveys and other administrative costs, shall be paid by the Secretary of the Interior.

SEC. 102. TRANSFER OF ADMINISTRATIVE JURISDICTION FROM THE FOREST SERVICE TO THE BUREAU OF LAND MANAGEMENT.

(a) IN GENERAL.—Administrative jurisdiction over the approximately 50 acres of Forest Service land identified on the Map as ''Parcel #1'' is transferred, from the Secretary of Agriculture to the Secretary of the Interior.

(b) COSTS.—Any costs relating to the transfer under subsection (a), including any costs for surveys and other administrative costs, shall be paid by the Secretary of the Interior.

(c) USE OF LAND.—

(1) RIGHT-OF-WAY.—Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior shall grant to the City a right-of-way for the maintenance of flood management facilities located on the land.

(2) DISPOSAL.—The land referred to in subsection (a) shall be disposed of in accordance with section 201.

(3) DISPOSITION OF PROCEEDS.—The gross proceeds from the disposal of land under paragraph (2) shall be distributed in accordance with section 202(a).

TITLE II—LAND DISPOSAL

SEC. 201. DISPOSAL OF CARSON CITY LAND.

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary of the Interior shall, in accordance with that Act, this title, and other applicable law, and subject to valid existing rights, conduct sales of the Federal land described in subsection (b) to qualified bidders.

(b) DESCRIPTION OF LAND.—The Federal land referred to in subsection (a) is—

(1) the approximately 108 acres of Bureau of Land Management land identified as ''Lands for Disposal'' on the Map; and

(2) the approximately 50 acres of land identified as ''Parcel #1'' on the Map.

(c) COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.—Before a sale of Federal land under subsection (a), the City shall submit to the Secretary a certification that qualified bidders have agreed to comply with—

(1) City zoning ordinances; and

(2) any master plan for the area approved by the City.

(d) METHOD OF SALE; CONSIDERATION.—The sale of Federal land under subsection (a) shall be—

(1) consistent with subsections (d) and (f) of section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713);

(2) unless otherwise determined by the Secretary, through a competitive bidding process; and

(3) for not less than fair market value.

(e) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights and except as provided in paragraph (2), the Federal land described in subsection (b) is withdrawn from—

(A) all forms of entry and appropriation under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing and geothermal leasing laws.

(2) EXCEPTION.—Paragraph (1)(A) shall not apply to sales made consistent with this section.

(f) DEADLINE FOR SALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 1 year after the date of enactment of this Act, if there is a qualified bidder for the land described in paragraphs (1) and (2) of subsection (b), the Secretary of the Interior shall offer the land for sale to the qualified bidder.

(2) POSTPONEMENT; EXCLUSION FROM SALE.—

(A) REQUEST BY CARSON CITY FOR POSTPONEMENT OR EXCLUSION.—At the request of the City, the Secretary shall postpone or exclude from the sale under paragraph (1) all or a portion of the land described in paragraphs (1) and (2) of subsection (b).

(B) INDEFINITE POSTPONEMENT.—Unless specifically requested by the City, a postponement under subparagraph (A) shall not be indefinite.

SEC. 202. DISPOSITION OF PROCEEDS.

(a) IN GENERAL.—Of the proceeds from the sale of land under sections 101(d)(4)(B) and 201(a)—

(1) 5 percent shall be paid directly to the State for use in the general education program of the State; and

(2) the remainder shall be deposited in a special account in the Treasury of the United States, to be known as the ''Carson City Special Account'', and shall be available without further appropriation to the Secretary until expended to—

(A) reimburse costs incurred by the Bureau of Land Management for preparing for the sale of the Federal land described in section 201(b), including the costs of—

(i) surveys and appraisals; and

(ii) compliance with—

(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(II) sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713);

(B) reimburse costs incurred by the Bureau of Land Management and Forest Service for preparing for, and carrying out, the transfers of land to be held in trust by the United States under section 301; and

(C) acquire environmentally sensitive land or an interest in environmentally sensitive land in the City.

(b) SILVER SADDLE ENDOWMENT ACCOUNT.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a special account, to be known as the ''Silver Saddle Endowment Account'', consisting of such amounts as are deposited under section 101(c)(1).

(2) AVAILABILITY OF AMOUNTS.—Amounts deposited in the account established by paragraph (1) shall be available to the Secretary, without further appropriation, for the oversight and enforcement of the conservation easement established under section 101(c)(2).

SEC. 203. URBAN INTERFACE.

(a) IN GENERAL.—Except as otherwise provided in this Act and subject to valid existing rights, the Federal land described in subsection (b) is permanently withdrawn from—

(1) all forms of entry and appropriation under the public land laws and mining laws;

(2) location and patent under the mining laws; and

(3) operation of the mineral laws, geothermal leasing laws, and mineral material laws.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 19,747 acres, which is identified on the Map as ''Urban Interface Withdrawal''.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of the land described in subsection (b) that is acquired by the United States after the date of enactment of this Act shall be withdrawn in accordance with this section.

(d) OFF-HIGHWAY VEHICLE MANAGEMENT.—Until the date on which the Secretary, in consultation with the State, the City, and any other interested persons, completes a transportation plan for Federal land in the City, the use of motorized and mechanical vehicles on Federal land within the City shall be limited to roads and trails in existence on the date of enactment of this Act unless the use of the vehicles is needed—

(1) for administrative purposes; or

(2) to respond to an emergency.

SEC. 204. AVAILABILITY OF FUNDS.

Section 4(e) of the Southern Nevada Public Land Management Act of 1998 (Public Law 105–263; 112 Stat. 2346; 116 Stat. 2007; 117 Stat. 1317; 118 Stat. 2414; 120 Stat. 3045) is amended—

(1) in paragraph (3)(A)(iv), by striking ''Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph 4))'' and inserting ''Clark, Lincoln, and White Pine Counties and Washoe County (subject to paragraph 4)) and Carson City (subject to paragraph (5))'';

(2) in paragraph (3)(A)(v), by striking ''Clark, Lincoln, and White Pine Counties'' and inserting ''Clark, Lincoln, and White Pine Counties and Carson City (subject to paragraph (5))'';

(3) in paragraph (4), by striking ''2011'' and inserting ''2015''; and

(4) by adding at the end the following:

''(5) LIMITATION FOR CARSON CITY.—Carson City shall be eligible to nominate for expenditure amounts to acquire land or an interest in land for parks or natural areas and for conservation initiatives—

''(A) adjacent to the Carson River; or

''(B) within the floodplain of the Carson River.''.

TITLE III—TRANSFER OF LAND TO BE HELD IN TRUST FOR THE WASHOE TRIBE, SKUNK HARBOR CONVEYANCE CORRECTION, FOREST SERVICE AGREEMENT, AND ARTIFACT COLLECTION

SEC. 301. TRANSFER OF LAND TO BE HELD IN TRUST FOR WASHOE TRIBE.

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the land described in subsection (b)—

(1) shall be held in trust by the United States for the benefit and use of the Tribe; and

(2) shall be part of the reservation of the Tribe.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 293 acres, which is identified on the Map as ''To Washoe Tribe''.

(c) SURVEY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall complete a survey of the boundary lines to establish the boundaries of the land taken into trust under subsection (a).

(d) USE OF LAND.—

(1) GAMING.—Land taken into trust under subsection (a) shall not be eligible, or considered to have been taken into trust, for class II gaming or class III gaming (as those terms are defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

(2) TRUST LAND FOR CEREMONIAL USE AND CONSERVATION.—With respect to the use of the land taken into trust under subsection (a) that is above the 5,200′ elevation contour, the Tribe—

(A) shall limit the use of the land to—

(i) traditional and customary uses; and

(ii) stewardship conservation for the benefit of the Tribe; and

(B) shall not permit any—

(i) permanent residential or recreational development on the land; or

(ii) commercial use of the land, including commercial development or gaming.

(3) TRUST LAND FOR COMMERCIAL AND RESIDENTIAL USE.—With respect to the use of the land taken into trust under subsection (a), the Tribe shall limit the use of the land below the 5,200′ elevation to—

(A) traditional and customary uses;

(B) stewardship conservation for the benefit of the Tribe; and

(C)(i) residential or recreational development; or

(ii) commercial use.

(4) THINNING; LANDSCAPE RESTORATION.—With respect to the land taken into trust under subsection (a), the Secretary of Agriculture, in consultation and coordination with the Tribe, may carry out any thinning and other landscape restoration activities on the land that is beneficial to the Tribe and the Forest Service.

SEC. 302. CORRECTION OF SKUNK HARBOR CONVEYANCE.

(a) PURPOSE.—The purpose of this section is to amend Public Law 108–67 (117 Stat. 880) to make a technical correction relating to the land conveyance authorized under that Act.

(b) TECHNICAL CORRECTION.—Section 2 of Public Law 108–67 (117 Stat. 880) is amended—

(1) by striking ''Subject to'' and inserting the following:

''(a) IN GENERAL.—Subject to'';

(2) in subsection (a) (as designated by paragraph (1)), by striking ''the parcel'' and all that follows through the period at the end and inserting the following: ''and to approximately 23 acres of land identified as 'Parcel A' on the map entitled 'Skunk Harbor Conveyance Correction' and dated September 12, 2008, the western boundary of which is the low water line of Lake Tahoe at elevation 6,223.0 (Lake Tahoe Datum).''; and

(3) by adding at the end the following:

''(b) SURVEY AND LEGAL DESCRIPTION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary of Agriculture shall complete a survey and legal description of the boundary lines to establish the boundaries of the trust land.

''(2) TECHNICAL CORRECTIONS.—The Secretary may correct any technical errors in the survey or legal description completed under paragraph (1).

''(c) PUBLIC ACCESS AND USE.—Nothing in this Act prohibits any approved general public access (through existing easements or by boat) to, or use of, land remaining within the Lake Tahoe Basin Management Unit after the conveyance of the land to the Secretary of the Interior, in trust for the Tribe, under subsection (a), including access to, and use of, the beach and shoreline areas adjacent to the portion of land conveyed under that subsection.''.

(c) DATE OF TRUST STATUS.—The trust land described in section 2(a) of Public Law 108–67 (117 Stat. 880) shall be considered to be taken into trust as of August 1, 2003.

(d) TRANSFER.—The Secretary of the Interior, acting on behalf of and for the benefit of the Tribe, shall transfer to the Secretary of Agriculture administrative jurisdiction over the land identified as ''Parcel B'' on the map entitled ''Skunk Harbor Conveyance Correction'' and dated September 12, 2008.

SEC. 303. AGREEMENT WITH FOREST SERVICE.

The Secretary of Agriculture, in consultation with the Tribe, shall develop and implement a cooperative agreement that ensures regular access by members of the Tribe and other people in the community of the Tribe across National Forest System land from the City to Lake Tahoe for cultural and religious purposes.

SEC. 304. ARTIFACT COLLECTION.

(a) NOTICE.—At least 180 days before conducting any ground disturbing activities on the land identified as ''Parcel #2'' on the Map, the City shall notify the Tribe of the proposed activities to provide the Tribe with adequate time to inventory and collect any artifacts in the affected area.

(b) AUTHORIZED ACTIVITIES.—On receipt of notice under subsection (a), the Tribe may collect and possess any artifacts relating to the Tribe in the land identified as ''Parcel #2'' on the Map.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 685—DESIGNATING THE LAST WEEK OF SEPTEMBER 2008 AS ''NATIONAL VOTER AWARENESS WEEK''

Mr. BROWN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 685

Whereas the Framers of the Constitution established the United States as a representative democracy, with the fundamental principle of civic engagement on the part of all eligible citizens;

Whereas an essential element of an effective democracy is the ability of each eligible and qualified citizen to be able to vote in fair and open elections;

Whereas Congress has passed important election laws such as the Help America Vote Act (HAVA) of 2002, the National Voter Registration Act of 1993 (NVRA- Motor Voter Act), and the Voting Rights Act of 1965, dedicated to increasing the transparency of the election process, strengthening our voting systems, and protecting the right of all citizens to vote;

Whereas the 26th amendment of the Constitution requires that ''the right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on the account of age'';

Whereas Minnesota, Maine, New Hampshire, Idaho, Wisconsin, and Wyoming allow same day registration of voters at the polls, and also experience the highest voter turnout rates in the country;

Whereas most States have 30-day voter registration deadlines, and the public must be informed of their local and State election laws in September in order to participate fully in the Federal elections in November;

Whereas experts estimate that more than 20 percent of voters nationwide will cast their ballots before election day by mail or at early-voting locations, a proportion of the electorate that is rising with each election;

Whereas many election officials note that early voting is convenient for voters, increases turnout, and reduces the strain on polling places and poll workers on election day;

Whereas, according to the Fair Vote Center for Voting and Democracy, voter turnout in the United States is lower than in most other developed nations, with the United States coming 20th out of 21 in voter turnout among established democracies; and

Whereas S. 1901, introduced in the 102nd Congress, would have amended section 6103 of title 5, United States Code, to establish Democracy Day as a legal public holiday on election day, in recognition of the need for increased participation of an educated electorate to preserve the legitimacy of democracy: Now, therefore, be it

Resolved, That the Senate—

(1) designates the last week of September 2008 as ''National Voter Awareness Week'';

(2) calls upon the people of the United States to observe such a week with appropriate programs and activities, including helping State and local institutions deliver sample ballots, voter registration forms, absentee ballots, and other educational materials to all eligible voters; and

(3) encourages all grassroots organizations and educational, cultural, and community institutions to promote voter awareness and registration programs that befit local election procedure.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5645. Mr. REID (for Mr. KYL) proposed an amendment to the bill S. 3296, to extend the authority of the United States Supreme Court Police to protect court officials off the Supreme Court Grounds and change the title of the Administrative Assistant to the Chief Justice.

SA 5646. Mr. REID (for Mr. BIDEN) proposed an amendment to the bill H.R. 5057, to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes.

SA 5647. Mr. NELSON, of Florida (for Mr. DORGAN) proposed an amendment to the bill H.R. 2786, to reauthorize the programs for housing assistance for Native Americans.

SA 5648. Mr. NELSON, of Florida (for himself and Mr. VITTER) proposed an amendment to the bill H.R. 6063, to authorize the programs of the National Aeronautics and Space Administration, and for other purposes.

SA 5649. Mr. NELSON, of Florida (for Mr. LEVIN (for himself and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 6460, to amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes.

SA 5650. Mr. DURBIN (for Mr. BIDEN (for himself, Mr. SCHUMER, Mr. HATCH, Mr. BROWN, Mr. ALEXANDER, Mr. CARPER, Mr. ALLARD, Mr. CASEY, Mr. BARRASSO, Mr. DODD, Mr. BROWNBACK, Mrs. MURRAY, Mr. CHAMBLISS, Mr. NELSON, of Nebraska, Mr. CRAPO, Mr. NELSON, of Florida, Mr. CORNYN, Mr. OBAMA, Mr. COBURN, Mr. PRYOR, Mr. ENZI, Mr. TESTER, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. MARTINEZ, Mr. MCCAIN, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. SUNUNU, Mr. THUNE, Mr. VITTER, Mr. MCCONNELL, Mr. VOINOVICH, Mr. BENNETT, Mr. SPECTER, and Mr. REID)) proposed an amendment to the bill S. 1738, to require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.

SA 5651. Mr. DURBIN (for Mr. BIDEN) proposed an amendment to the bill S. 1738, supra.

SA 5652. Mr. DURBIN (for Mr. LEAHY) proposed an amendment to the bill S. 2982, to amend the Runaway and Homeless Youth Act to authorize appropriations, and for other purposes.

SA 5653. Mr. DURBIN (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 1777, to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws.

TEXT OF AMENDMENTS

SA 5645. Mr. REID (for Mr. KYL) proposed an amendment to the bill S. 3296, to extend the authority of the United States Supreme Court Police to protect court officials off the Supreme Court Grounds and change the title of the Administrative Assistant to the Chief Justice; as follows:

At the end of the bill, add the following:

SEC. 2. LIMITATION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.

(a) DEFINITIONS.—In this section:

(1) GIFT.—The term ''gift'' has the meaning given under section 109(5) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(2) JUDICIAL OFFICER.—The term ''judicial officer'' has the meaning given under section 109(10) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(b) PROHIBITION ON ACCEPTANCE OF HONORARY CLUB MEMBERSHIPS.—A judicial officer may not accept a gift of an honorary club membership with a value of more than $50 in any calendar year.

SA 5646. Mr. REID (for Mr. BIDEN) proposed an amendment to the bill H.R. 5057, to reauthorize the Debbie Smith DNA Backlog Grant Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Debbie Smith Reauthorization Act of 2008''.

SEC. 2. GENERAL REAUTHORIZATION.

Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (c)(3), by—

(A) striking subparagraphs (A) through (D);

(B) redesignating subparagraph (E) and subparagraph (A); and

(C) inserting at the end the following:

''(B) For each of the fiscal years 2010 through 2014, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).''; and

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

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for grants under subsection (a) $151,000,000 for each of fiscal years 2009 through 2014.''.

SEC. 3. TRAINING AND EDUCATION.

Section 303(b) of the DNA Sexual Assault Justice Act of 2004 (42 U.S.C. 14136(b)) is amended by striking ''2005 through 2009'' and inserting ''2009 through 2014''.

SEC. 4. SEXUAL ASSAULT FORENSIC EXAM GRANTS.

Section 304(c) of the DNA Sexual Assault Justice Act of 2004 (42 U.S.C. 14136a(c)) is amended by striking ''2005 through 2009'' and inserting ''2009 through 2014''.

SA 5647. Mr. NELSON of Florida (for Mr. DORGAN) proposed an amendment to the bill H.R. 2786, to reauthorize the programs for housing assistance for Native Americans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Housing Assistance and Self-Determination Reauthorization Act of 2008''.

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

SEC. 2. CONGRESSIONAL FINDINGS.

Section 2 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) is amended in paragraphs (6) and (7) by striking ''should'' each place it appears and inserting ''shall''.

SEC. 3. DEFINITIONS.

Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) is amended—

(1) by striking paragraph (22);

(2) by redesignating paragraphs (8) through (21) as paragraphs (9) through (22), respectively; and

(3) by inserting after paragraph (7) the following:

''(8) HOUSING RELATED COMMUNITY DEVELOPMENT.—

''(A) IN GENERAL.—The term 'housing related community development' means any facility, community building, business, activity, or infrastructure that—

''(i) is owned by an Indian tribe or a tribally designated housing entity;

''(ii) is necessary to the provision of housing in an Indian area; and

''(iii)(I) would help an Indian tribe or tribally designated housing entity to reduce the cost of construction of Indian housing;

''(II) would make housing more affordable, accessible, or practicable in an Indian area; or

''(III) would otherwise advance the purposes of this Act.

''(B) EXCLUSION.—The term 'housing and community development' does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).''.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

SEC. 101. BLOCK GRANTS.

Section 101 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''For each'' and inserting the following:

''(1) IN GENERAL.—For each'';

(ii) by striking ''tribes to carry out affordable housing activities.'' and inserting the following: ''tribes—

''(A) to carry out affordable housing activities under subtitle A of title II; and''; and

(iii) by adding at the end the following:

''(B) to carry out self-determined housing activities for tribal communities programs under subtitle B of that title.''; and

(B) in the second sentence, by striking ''Under'' and inserting the following:

''(2) PROVISION OF AMOUNTS.—Under'';

(2) in subsection (g), by inserting ''of this section and subtitle B of title II'' after ''subsection (h)''; and

(3) by adding at the end the following:

''(j) FEDERAL SUPPLY SOURCES.—For purposes of section 501 of title 40, United States Code, on election by the applicable Indian tribe—

''(1) each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and

''(2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.

''(k) TRIBAL PREFERENCE IN EMPLOYMENT AND CONTRACTING.—Notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under this Act that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant).''.

SEC. 102. INDIAN HOUSING PLANS.

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

(1) in subsection (a)(1)—

(A) by striking ''(1)(A) for'' and all that follows through the end of subparagraph (A) and inserting the following:

''(1)(A) for an Indian tribe to submit to the Secretary, by not later than 75 days before the beginning of each tribal program year, a 1-year housing plan for the Indian tribe; or''; and

(B) in subparagraph (B), by striking ''subsection (d)'' and inserting ''subsection (c)'';

(2) by striking subsections (b) and (c) and inserting the following:

''(b) 1-YEAR PLAN REQUIREMENT.—

''(1) IN GENERAL.—A housing plan of an Indian tribe under this section shall—

''(A) be in such form as the Secretary may prescribe; and

''(B) contain the information described in paragraph (2).

''(2) REQUIRED INFORMATION.—A housing plan shall include the following information with respect to the tribal program year for which assistance under this Act is made available:

''(A) DESCRIPTION OF PLANNED ACTIVITIES.—A statement of planned activities, including—

''(i) the types of household to receive assistance;

''(ii) the types and levels of assistance to be provided;

''(iii) the number of units planned to be produced;

''(iv)(I) a description of any housing to be demolished or disposed of;

''(II) a timetable for the demolition or disposition; and

''(III) any other information required by the Secretary with respect to the demolition or disposition;

''(v) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

''(vi) outcomes anticipated to be achieved by the recipient.

''(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe, and the means by which those needs will be addressed during the applicable period, including—

''(i) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

''(ii) a description of the estimated housing needs for all Indian families in the jurisdiction.

''(C) FINANCIAL RESOURCES.—An operating budget for the recipient, in such form as the Secretary may prescribe, that includes—

''(i) an identification and description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and

''(ii) the uses to which those resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses.

''(D) CERTIFICATION OF COMPLIANCE.—Evidence of compliance with the requirements of this Act, including, as appropriate—

''(i) a certification that, in carrying out this Act, the recipient will comply with the applicable provisions of title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) and other applicable Federal laws and regulations;

''(ii) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as the Secretary may establish;

''(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act;

''(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents and homebuyer payments charged, including the methods by which the rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this Act;

''(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act; and

''(vi) a certification that the recipient will comply with section 104(b).'';

(3) by redesignating subsections (d) through (f) as subsections (c) through (e), respectively; and

(4) in subsection (d) (as redesignated by paragraph (3)), by striking ''subsection (d)'' and inserting ''subsection (c)''.

SEC. 103. REVIEW OF PLANS.

Section 103 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113) is amended—

(1) in subsection (d)—

(A) in the first sentence—

(i) by striking ''fiscal'' each place it appears and inserting ''tribal program''; and

(ii) by striking ''(with respect to'' and all that follows through ''section 102(c))''; and

(B) by striking the second sentence; and

(2) by striking subsection (e) and inserting the following:

''(e) SELF-DETERMINED ACTIVITIES PROGRAM.—Notwithstanding any other provision of this section, the Secretary—

''(1) shall review the information included in an Indian housing plan pursuant to subsections (b)(4) and (c)(7) only to determine

whether the information is included for purposes of compliance with the requirement under section 232(b)(2); and

''(2) may not approve or disapprove an Indian housing plan based on the content of the particular benefits, activities, or results included pursuant to subsections (b)(4) and (c)(7).''.

SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

Section 104(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(a)) is amended by adding at the end the following:

''(4) EXCLUSION FROM PROGRAM INCOME OF REGULAR DEVELOPER'S FEES FOR LOW-INCOME HOUSING TAX CREDIT PROJECTS.—Notwithstanding any other provision of this Act, any income derived from a regular and customary developer's fee for any project that receives a low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, and that is initially funded using a grant provided under this Act, shall not be considered to be program income if the developer's fee is approved by the State housing credit agency.''.

SEC. 105. REGULATIONS.

Section 106(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)) is amended—

(1) in subparagraph (B)(i), by striking ''The Secretary'' and inserting ''Not later than 180 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act, the Secretary''; and

(2) by adding at the end the following:

''(C) SUBSEQUENT NEGOTIATED RULEMAKING.—The Secretary shall—

''(i) initiate a negotiated rulemaking in accordance with this section by not later than 90 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act; and

''(ii) promulgate regulations pursuant to this section by not later than 2 years after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 and any other Act to reauthorize this Act.

''(D) REVIEW.—Not less frequently than once every 7 years, the Secretary, in consultation with Indian tribes, shall review the regulations promulgated pursuant to this section in effect on the date on which the review is conducted.''.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.

Section 201(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)) is amended—

(1) in paragraph (1), by inserting ''and except with respect to loan guarantees under the demonstration program under title VI,'' after ''paragraphs (2) and (4),'';

(2) in paragraph (2)—

(A) by striking the first sentence and inserting the following:

''(A) EXCEPTION TO REQUIREMENT.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance through affordable housing activities for which a grant is provided under this Act to any family that is not a low-income family, to the extent that the Secretary approves the activities due to a need for housing for those families that cannot reasonably be met without that assistance.''; and

(B) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(B) LIMITS.—The Secretary'';

(3) in paragraph (3)—

(A) in the paragraph heading, by striking ''NON-INDIAN'' and inserting ''ESSENTIAL''; and

(B) by striking ''non-Indian family'' and inserting ''family''; and

(4) in paragraph (4)(A)(i), by inserting ''or other unit of local government,'' after ''county,''.

SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

Section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132) is amended—

(1) in the matter preceding paragraph (1), by striking ''to develop or to support'' and inserting ''to develop, operate, maintain, or support'';

(2) in paragraph (2)—

(A) by striking ''development of utilities'' and inserting ''development and rehabilitation of utilities, necessary infrastructure,''; and

(B) by inserting ''mold remediation,'' after ''energy efficiency,'';

(3) in paragraph (4), by inserting ''the costs of operation and maintenance of units developed with funds provided under this Act,'' after ''rental assistance,''; and

(4) by adding at the end the following:

''(9) RESERVE ACCOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the deposit of amounts, including grant amounts under section 101, in a reserve account established for an Indian tribe only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities under this section, in accordance with the Indian housing plan of the Indian tribe.

''(B) MAXIMUM AMOUNT.—A reserve account established under subparagraph (A) shall consist of not more than an amount equal to ¼ of the 5-year average of the annual amount used by a recipient for administration and planning under paragraph (2).''.

SEC. 203. PROGRAM REQUIREMENTS.

Section 203 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4133) is amended by adding at the end the following:

''(f) USE OF GRANT AMOUNTS OVER EXTENDED PERIODS.—

''(1) IN GENERAL.—To the extent that the Indian housing plan for an Indian tribe provides for the use of amounts of a grant under section 101 for a period of more than 1 fiscal year, or for affordable housing activities for which the amounts will be committed for use or expended during a subsequent fiscal year, the Secretary shall not require those amounts to be used or committed for use at any time earlier than otherwise provided for in the Indian housing plan.

''(2) CARRYOVER.—Any amount of a grant provided to an Indian tribe under section 101 for a fiscal year that is not used by the Indian tribe during that fiscal year may be used by the Indian tribe during any subsequent fiscal year.

''(g) DE MINIMIS EXEMPTION FOR PROCUREMENT OF GOODS AND SERVICES.—Notwithstanding any other provision of law, a recipient shall not be required to act in accordance with any otherwise applicable competitive procurement rule or procedure with respect to the procurement, using a grant provided under this Act, of goods and services the value of which is less than $5,000.''.

SEC. 204. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

Section 205 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135) is amended by adding at the end the following:

''(c) APPLICABILITY.—The provisions of paragraph (2) of subsection (a) regarding binding commitments for the remaining useful life of property shall not apply to a family or household member who subsequently takes ownership of a homeownership unit.''.

SEC. 205. AVAILABILITY OF RECORDS.

Section 208(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138(a)) is amended by inserting ''applicants for employment, and of'' after ''records of''.

SEC. 206. SELF-DETERMINED HOUSING ACTIVITIES FOR TRIBAL COMMUNITIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title II of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131 et seq.) is amended—

(1) by inserting after the title designation and heading the following:

''Subtitle A—General Block Grant Program'';

and

(2) by adding at the end the following:

''Subtitle B—Self-Determined Housing Activities for Tribal Communities

''SEC. 231. PURPOSE.

''The purpose of this subtitle is to establish a program for self-determined housing activities for the tribal communities to provide Indian tribes with the flexibility to use a portion of the grant amounts under section 101 for the Indian tribe in manners that are wholly self-determined by the Indian tribe for housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the community served by the Indian tribe.

''SEC. 232. PROGRAM AUTHORITY.

''(a) DEFINITION OF QUALIFYING INDIAN TRIBE.—In this section, the term 'qualifying Indian tribe' means, with respect to a fiscal year, an Indian tribe or tribally designated housing entity—

''(1) to or on behalf of which a grant is made under section 101;

''(2) that has complied with the requirements of section 102(b)(6); and

''(3) that, during the preceding 3-fiscal-year period, has no unresolved significant and material audit findings or exceptions, as demonstrated in—

''(A) the annual audits of that period completed under chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act'); or

''(B) an independent financial audit prepared in accordance with generally accepted auditing principles.

''(b) AUTHORITY.—Under the program under this subtitle, for each of fiscal years 2009 through 2013, the recipient for each qualifying Indian tribe may use the amounts specified in subsection (c) in accordance with this subtitle.

''(c) AMOUNTS.—With respect to a fiscal year and a recipient, the amounts referred to in subsection (b) are amounts from any grant provided under section 101 to the recipient for the fiscal year, as determined by the recipient, but in no case exceeding the lesser of—

''(1) an amount equal to 20 percent of the total grant amount for the recipient for that fiscal year; and

''(2) $2,000,000.

''SEC. 233. USE OF AMOUNTS FOR HOUSING ACTIVITIES.

''(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts made available for use under this subtitle by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and described in the Indian housing plan for the Indian tribe pursuant to section 102(b)(6), for the construction, acquisition, or rehabilitation of housing or infrastructure in accordance with section 202 to provide a benefit to families described in section 201(b)(1).

''(b) PROHIBITION ON CERTAIN ACTIVITIES.—Amounts made available for use under this subtitle may not be used for commercial or economic development.

''SEC. 234. INAPPLICABILITY OF OTHER PROVISIONS.

''(a) IN GENERAL.—Except as otherwise specifically provided in this Act, title I, subtitle A of title II, and titles III through VIII shall not apply to—

''(1) the program under this subtitle; or

''(2) amounts made available in accordance with this subtitle.

''(b) APPLICABLE PROVISIONS.—The following provisions of titles I through VIII shall apply to the program under this subtitle and amounts made available in accordance with this subtitle:

''(1) Section 101(c) (relating to local cooperation agreements).

''(2) Subsections (d) and (e) of section 101 (relating to tax exemption).

''(3) Section 101(j) (relating to Federal supply sources).

''(4) Section 101(k) (relating to tribal preference in employment and contracting).

''(5) Section 102(b)(4) (relating to certification of compliance).

''(6) Section 104 (relating to treatment of program income and labor standards).

''(7) Section 105 (relating to environmental review).

''(8) Section 201(b) (relating to eligible families).

''(9) Section 203(c) (relating to insurance coverage).

''(10) Section 203(g) (relating to a de minimis exemption for procurement of goods and services).

''(11) Section 206 (relating to treatment of funds).

''(12) Section 209 (relating to noncompliance with affordable housing requirement).

''(13) Section 401 (relating to remedies for noncompliance).

''(14) Section 408 (relating to public availability of information).

''(15) Section 702 (relating to 50-year leasehold interests in trust or restricted lands for housing purposes).

''SEC. 235. REVIEW AND REPORT.

''(a) REVIEW.—During calendar year 2011, the Secretary shall conduct a review of the results achieved by the program under this subtitle to determine—

''(1) the housing constructed, acquired, or rehabilitated under the program;

''(2) the effects of the housing described in paragraph (1) on costs to low-income families of affordable housing;

''(3) the effectiveness of each recipient in achieving the results intended to be achieved, as described in the Indian housing plan for the Indian tribe; and

''(4) the need for, and effectiveness of, extending the duration of the program and increasing the amount of grants under section 101 that may be used under the program.

''(b) REPORT.—Not later than December 31, 2011, the Secretary shall submit to Congress a report describing the information obtained pursuant to the review under subsection (a) (including any conclusions and recommendations of the Secretary with respect to the program under this subtitle), including—

''(1) recommendations regarding extension of the program for subsequent fiscal years and increasing the amounts under section 232(c) that may be used under the program; and

''(2) recommendations for—

''(A)(i) specific Indian tribes or recipients that should be prohibited from participating in the program for failure to achieve results; and

''(ii) the period for which such a prohibition should remain in effect; or

''(B) standards and procedures by which Indian tribes or recipients may be prohibited from participating in the program for failure to achieve results.

''(c) PROVISION OF INFORMATION TO SECRETARY.—Notwithstanding any other provision of this Act, recipients participating in the program under this subtitle shall provide such information to the Secretary as the Secretary may request, in sufficient detail and in a timely manner sufficient to ensure that the review and report required by this section is accomplished in a timely manner.''.

(b) TECHNICAL AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended—

(1) by inserting after the item for title II the following:

''Subtitle A—General Block Grant Program'';

(2) by inserting after the item for section 205 the following:

''Sec. 206. Treatment of funds.'';

and

(3) by inserting before the item for title III the following:

''Subtitle B—Self-Determined Housing Activities for Tribal Communities

''Sec. 231. Purposes.
''Sec. 232. Program authority.
''Sec. 233. Use of amounts for housing activities.
''Sec. 234. Inapplicability of other provisions.
''Sec. 235. Review and report.''.

TITLE III—ALLOCATION OF GRANT AMOUNTS

SEC. 301. ALLOCATION FORMULA.

Section 302 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152) is amended—

(1) in subsection (a)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) STUDY OF NEED DATA.—

''(A) IN GENERAL.—The Secretary shall enter into a contract with an organization with expertise in housing and other demographic data collection methodologies under which the organization, in consultation with Indian tribes and Indian organizations, shall—

''(i) assess existing data sources, including alternatives to the decennial census, for use in evaluating the factors for determination of need described in subsection (b); and

''(ii) develop and recommend methodologies for collecting data on any of those factors, including formula area, in any case in which existing data is determined to be insufficient or inadequate, or fails to satisfy the requirements of this Act.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.''; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

''(1)(A) The number of low-income housing dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), pursuant to a contract between an Indian housing authority for the tribe and the Secretary, that are owned or operated by a recipient on the October 1 of the calendar year immediately preceding the year for which funds are provided, subject to the condition that such a unit shall not be considered to be a low-income housing dwelling unit for purposes of this section if—

''(i) the recipient ceases to possess the legal right to own, operate, or maintain the unit; or

''(ii) the unit is lost to the recipient by conveyance, demolition, or other means.

''(B) If the unit is a homeownership unit not conveyed within 25 years from the date of full availability, the recipient shall not be considered to have lost the legal right to own, operate, or maintain the unit if the unit has not been conveyed to the homebuyer for reasons beyond the control of the recipient.

''(C) If the unit is demolished and the recipient rebuilds the unit within 1 year of demolition of the unit, the unit may continue to be considered a low-income housing dwelling unit for the purpose of this paragraph.

''(D) In this paragraph, the term 'reasons beyond the control of the recipient' means, after making reasonable efforts, there remain—

''(i) delays in obtaining or the absence of title status reports;

''(ii) incorrect or inadequate legal descriptions or other legal documentation necessary for conveyance;

''(iii) clouds on title due to probate or intestacy or other court proceedings; or

''(iv) any other legal impediment.

''(E) Subparagraphs (A) through (D) shall not apply to any claim arising from a formula current assisted stock calculation or count involving an Indian housing block grant allocation for any fiscal year through fiscal year 2008, if a civil action relating to the claim is filed by not later than 45 days after the date of enactment of this subparagraph.''.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

SEC. 401. REMEDIES FOR NONCOMPLIANCE.

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) SUBSTANTIAL NONCOMPLIANCE.—The failure of a recipient to comply with the requirements of section 302(b)(1) regarding the reporting of low-income dwelling units shall not, in itself, be considered to be substantial noncompliance for purposes of this title.''.

SEC. 402. MONITORING OF COMPLIANCE.

Section 403(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4163(b)) is amended in the second sentence by inserting ''an appropriate level of'' after ''shall include''.

SEC. 403. PERFORMANCE REPORTS.

Section 404(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4164(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''goals'' and inserting ''planned activities''; and

(B) by adding ''and'' after the semicolon at the end;

(2) in paragraph (3), by striking ''; and'' at the end and inserting a period; and

(3) by striking paragraph (4).

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.

(a) IN GENERAL.—Title V of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181 et seq.) is amended by adding at the end the following:

''SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.

''Nothing in this Act or an amendment made by this Act prohibits or prevents any participating jurisdiction (within the meaning of the HOME Investment Partnerships Act (42 U.S.C. 12721 et seq.)) from providing any amounts made available to the participating jurisdiction under that Act (42 U.S.C. 12721 et seq.) to an Indian tribe or a tribally designated housing entity for use in accordance with that Act (42 U.S.C. 12721 et seq.).''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended by inserting after the item relating to section 508 the following:

''Sec. 509. Effect on HOME Investment Partnerships Act.''.

TITLE VI—GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES

SEC. 601. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.

(a) IN GENERAL.—Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191 et seq.) is amended by adding at the end the following:

''SEC. 606. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.

''(a) AUTHORITY.—

''(1) IN GENERAL.—Subject to paragraph (2), to the extent and in such amounts as are provided in appropriation Acts, subject to the requirements of this section, and in accordance with such terms and conditions as the Secretary may prescribe, the Secretary may guarantee and make commitments to guarantee the notes and obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing activities carried out on Indian reservations and in other Indian areas that, under the first sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), are eligible for financing with notes and other obligations guaranteed pursuant to that section.

''(2) LIMITATION.—The Secretary may guarantee, or make commitments to guarantee, under paragraph (1) the notes or obligations of not more than 4 Indian tribes or tribally designated housing entities located in each Department of Housing and Urban Development Office of Native American Programs region.

''(b) LOW-INCOME BENEFIT REQUIREMENT.—Not less than 70 percent of the aggregate amount received by an Indian tribe or tribally designated housing entity as a result of a guarantee under this section shall be used for the support of activities that benefit low-income families on Indian reservations and other Indian areas.

''(c) FINANCIAL SOUNDNESS.—

''(1) IN GENERAL.—The Secretary shall establish underwriting criteria for guarantees under this section, including fees for the guarantees, as the Secretary determines to be necessary to ensure that the program under this section is financially sound.

''(2) AMOUNTS OF FEES.—Fees for guarantees established under paragraph (1) shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section, as determined based on the risk to the Federal Government under the underwriting requirements established under paragraph (1).

''(d) TERMS OF OBLIGATIONS.—

''(1) IN GENERAL.—Each note or other obligation guaranteed pursuant to this section shall be in such form and denomination, have such maturity, and be subject to such conditions as the Secretary may prescribe, by regulation.

''(2) LIMITATION.—The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless—

''(A) the period is more than 20 years; or

''(B) the Secretary determines that the period would cause the guarantee to constitute an unacceptable financial risk.

''(e) LIMITATION ON PERCENTAGE.—A guarantee made under this section shall guarantee repayment of 95 percent of the unpaid principal and interest due on the note or other obligation guaranteed.

''(f) SECURITY AND REPAYMENT.—

''(1) REQUIREMENTS ON ISSUER.—To ensure the repayment of notes and other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the Indian tribe or housing entity issuing the notes or obligations—

''(A) to enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

''(B) to demonstrate that the extent of each issuance and guarantee under this section is within the financial capacity of the Indian tribe; and

''(C) to furnish, at the discretion of the Secretary, such security as the Secretary determines to be appropriate in making the guarantees, including increments in local tax receipts generated by the activities assisted by a guarantee under this section or disposition proceeds from the sale of land or rehabilitated property, except that the security may not include any grant amounts received or for which the issuer may be eligible under title I.

''(2) FULL FAITH AND CREDIT.—

''(A) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section.

''(B) TREATMENT OF GUARANTEES.—

''(i) IN GENERAL.—Any guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest.

''(ii) INCONTESTABLE NATURE.—The validity of any such a guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

''(g) TRAINING AND INFORMATION.—The Secretary, in cooperation with Indian tribes and tribally designated housing entities, may carry out training and information activities with respect to the guarantee program under this section.

''(h) LIMITATIONS ON AMOUNT OF GUARANTEES.—

''(1) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, and to the extent approved or provided for in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount not to exceed $200,000,000 for each of fiscal years 2009 through 2013.

''(2) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of guarantees under this section $1,000,000 for each of fiscal years 2009 through 2013.

''(3) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this section shall not at any time exceed $1,000,000,000 or such higher amount as may be authorized to be appropriated for this section for any fiscal year.

''(4) FISCAL YEAR LIMITATIONS ON INDIAN TRIBES.—

''(A) IN GENERAL.—The Secretary shall monitor the use of guarantees under this section by Indian tribes.

''(B) MODIFICATIONS.—If the Secretary determines that 50 percent of the aggregate guarantee authority under paragraph (3) has been committed, the Secretary may—

''(i) impose limitations on the amount of guarantees pursuant to this section that any single Indian tribe may receive in any fiscal year of $25,000,000; or

''(ii) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this section.

''(i) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit to Congress a report describing the use of the authority under this section by Indian tribes and tribally designated housing entities, including—

''(1) an identification of the extent of the use and the types of projects and activities financed using that authority; and

''(2) an analysis of the effectiveness of the use in carrying out the purposes of this section.

''(j) TERMINATION.—The authority of the Secretary under this section to make new guarantees for notes and obligations shall terminate on October 1, 2013.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended by inserting after the item relating to section 605 the following:

''Sec. 606. Demonstration program for guaranteed loans to finance tribal community and economic development activities.''.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

(a) BLOCK GRANTS AND GRANT REQUIREMENTS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended in the first sentence by striking ''1998 through 2007'' and inserting ''2009 through 2013''.

(b) FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.—Section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) is amended in subsections (a) and (b) by striking ''1997 through 2007'' each place it appears and inserting ''2009 through 2013''.

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking ''1997 through 2007'' and inserting ''2009 through 2013''.

TITLE VIII—MISCELLANEOUS

SEC. 801. LIMITATION ON USE FOR CHEROKEE NATION.

No funds authorized under this Act, or the amendments made by this Act, or appropriated pursuant to an authorization under this Act or such amendments, shall be expended for the benefit of the Cherokee Nation; provided, that this limitation shall not be effective if the Temporary Order and Temporary Injunction issued on May 14, 2007, by the District Court of the Cherokee Nation remains in effect during the pendency of litigation or there is a settlement agreement which effects the end of litigation among the adverse parties.

SEC. 802. LIMITATION ON USE OF FUNDS.

No amounts made available pursuant to any authorization of appropriations under this Act, or under the amendments made by this Act, may be used to employ workers described in section 274A(h)(3)) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)).

SEC. 803. GAO STUDY OF EFFECTIVENESS OF NAHASDA FOR TRIBES OF DIFFERENT SIZES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the effectiveness of the Native American Housing Assistance and Self-Determination Act of 1996 in achieving its purposes of meeting the needs for affordable housing for low-income Indian families, as compared to the programs for housing and community development assistance for Indian tribes and families and Indian housing authorities that were terminated under title V of such Act and the amendments made by such title. The study shall compare such effectiveness with respect to Indian tribes of various sizes and types, and specifically with respect to smaller tribes for which grants of lesser or minimum amounts have been made under title I of such Act.

(b) REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the results and conclusions of the study conducted pursuant to subsection (a). Such report shall include recommendations regarding any changes appropriate to the Native American Housing Assistance and Self-Determination Act of 1996 to help ensure that the purposes of such Act are achieved by all Indian tribes, regardless of size or type.

SA 5648. Mr. NELSON of Florida (for himself and Mr. VITTER) proposed an amendment to the bill H.R. 6063, to authorize the programs of the National Aeronautics and Space Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Aeronautics and Space Administration Authorization Act of 2008''.

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

SEC. 2. FINDINGS.

The Congress finds, on this, the 50th anniversary of the establishment of the National Aeronautics and Space Administration, the following:

(1) NASA is and should remain a multimission agency with a balanced and robust set of core missions in science, aeronautics, and human space flight and exploration.

(2) Investment in NASA's programs will promote innovation through research and development, and will improve the competitiveness of the United States.

(3) Investment in NASA's programs, like investments in other Federal science and technology activities, is an investment in our future.

(4) Properly structured, NASA's activities can contribute to an improved quality of life, economic vitality, United States leadership in peaceful cooperation with other nations on challenging undertakings in science and technology, national security, and the advancement of knowledge.

(5) NASA should assume a leadership role in a cooperative international Earth observations and research effort to address key research issues associated with climate change and its impacts on the Earth system.

(6) NASA should undertake a program of aeronautical research, development, and where appropriate demonstration activities with the overarching goals of—

(A) ensuring that the Nation's future air transportation system can handle up to 3 times the current travel demand and incorporate new vehicle types with no degradation in safety or adverse environmental impact on local communities;

(B) protecting the environment;

(C) promoting the security of the Nation; and

(D) retaining the leadership of the United States in global aviation.

(7) Human and robotic exploration of the solar system will be a significant long-term undertaking of humanity in the 21st century and beyond, and it is in the national interest that the United States should assume a leadership role in a cooperative international exploration initiative.

(8) Developing United States human space flight capabilities to allow independent American access to the International Space Station, and to explore beyond low Earth orbit, is a strategically important national imperative, and all prudent steps should thus be taken to bring the Orion Crew Exploration Vehicle and Ares I Crew Launch Vehicle to full operational capability as soon as possible and to ensure the effective development of a United States heavy lift launch capability for missions beyond low Earth orbit.

(9) NASA's scientific research activities have contributed much to the advancement of knowledge, provided societal benefits, and helped train the next generation of scientists and engineers, and those activities should continue to be an important priority.

(10) NASA should make a sustained commitment to a robust long-term technology development activity. Such investments represent the critically important ''seed corn'' on which NASA's ability to carry out challenging and productive missions in the future will depend.

(11) NASA, through its pursuit of challenging and relevant activities, can provide an important stimulus to the next generation to pursue careers in science, technology, engineering, and mathematics.

(12) Commercial activities have substantially contributed to the strength of both the United States space program and the national economy, and the development of a healthy and robust United States commercial space sector should continue to be encouraged.

(13) It is in the national interest for the United States to have an export control policy that protects the national security while also enabling the United States aerospace industry to compete effectively in the global market place and the United States to undertake cooperative programs in science and human space flight in an effective and efficient manner.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of NASA.

(2) NASA.—The term ''NASA'' means the National Aeronautics and Space Administration.

(3) NOAA.—The term ''NOAA'' means the National Oceanic and Atmospheric Administration.

(4) OSTP.—The term ''OSTP'' means the Office of Science and Technology Policy.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2009

SEC. 101. FISCAL YEAR 2009.

There are authorized to be appropriated to NASA for fiscal year 2009 $20,210,000,000, as follows:

(1) For Science, $4,932,200,000, of which—

(A) $1,518,000,000 shall be for Earth Science, including $29,200,000 for suborbital activities and $2,500,000 for carrying out section 313 of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155);

(B) $1,483,000,000 shall be for Planetary Science, including $486,500,000 for the Mars Exploration program, $2,000,000 to continue planetary radar operations at the Arecibo Observatory in support of the Near-Earth Object program, and $5,000,000 for radioisotope material production, to remain available until expended;

(C) $1,290,400,000 shall be for Astrophysics, including $27,300,000 for suborbital activities;

(D) $640,800,000 shall be for Heliophysics, including $50,000,000 for suborbital activities; and

(E) $75,000,000 shall be for Intra-Science Mission Directorate Technology Development, to be taken on a proportional basis from the funding subtotals under subparagraphs (A), (B), (C), and (D).

(2) For Aeronautics, $853,400,000, of which $406,900,000 shall be for system-level research, development, and demonstration activities related to—

(A) aviation safety;

(B) environmental impact mitigation, including noise, energy efficiency, and emissions;

(C) support of the Next Generation Air Transportation System initiative; and

(D) investigation of new vehicle concepts and flight regimes.

(3) For Exploration, $4,886,000,000, of which—

(A) $3,886,000,000 shall be for baseline exploration activities, of which $100,000,000 shall be for the activities under sections 902(a)(4) and 902(d), such funds to remain available until expended; no less than $1,101,400,000 shall be for the Orion Crew Exploration Vehicle; no less than $1,018,500,000 shall be for Ares I Crew Launch Vehicle; and $737,800,000 shall be for Advanced Capabilities, including $106,300,000 for the Lunar Precursor Robotic Program (of which $30,000,000 shall be for the lunar lander mission), $276,500,000 shall be for International Space Station-related research and development activities, and $355,000,000 shall be for research and development activities not related to the International Space Station; and

(B) $1,000,000,000 shall be available to be used to accelerate the initial operating capability of the Orion Crew Exploration Vehicle and the Ares I Crew Launch Vehicle, to remain available until expended.

(4) For Education, $128,300,000, of which $14,200,000 shall be for the Experimental Program to Stimulate Competitive Research and $32,000,000 shall be for the Space Grant program.

(5) For Space Operations, $6,074,700,000, of which—

(A) $150,000,000 shall be for an additional Space Shuttle flight to deliver the Alpha Magnetic Spectrometer to the International Space Station;

(B) $100,000,000 shall be to augment funding for research utilization of the International Space Station National Laboratory, to remain available until expended; and

(C) $50,000,000 shall be to augment funding for Space Operations Mission Directorate reserves and Shuttle Transition and Retirement activities.

(6) For Cross-Agency Support Programs, $3,299,900,000, of which $4,000,000 shall be for the program established under section 1107(a), to remain available until expended.

(7) For Inspector General, $35,500,000.

TITLE II—EARTH SCIENCE

SEC. 201. GOAL.

The goal for NASA's Earth Science program shall be to pursue a program of Earth observations, research, and applications activities to better understand the Earth, how it supports life, and how human activities affect its ability to do so in the future. In pursuit of this goal, NASA's Earth Science program shall ensure that securing practical benefits for society will be an important measure of its success in addition to securing new knowledge about the Earth system and climate change. In further pursuit of this goal, NASA shall, together with NOAA and other relevant agencies, provide United States leadership in developing and carrying out a cooperative international Earth observations-based research program.

SEC. 202. GOVERNANCE OF UNITED STATES EARTH OBSERVATIONS ACTIVITIES.

(a) STUDY.—The Director of OSTP shall consult with NASA, NOAA, and other relevant agencies with an interest in Earth observations and enter into an arrangement with the National Academies for a study to determine the most appropriate governance structure for United States Earth Observations programs in order to meet evolving United States Earth information needs and facilitate United States participation in global Earth Observations initiatives.

(b) REPORT.—The Director shall transmit the study to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of this Act, and shall provide OSTP's plan for implementing the study's recommendations not later than 24 months after the date of enactment of this Act.

SEC. 203. DECADAL SURVEY MISSIONS.

(a) IN GENERAL.—The missions recommended in the National Academies' decadal survey ''Earth Science and Applications from Space'' provide the basis for a compelling and relevant program of research and applications, and the Administrator should work to establish an international cooperative effort to pursue those missions.

(b) PLAN.—The Administrator shall consult with all agencies referenced in the survey as responsible for spacecraft missions and prepare a plan for submission to Congress not later than 270 days after the date of enactment of this Act that shall describe how NASA intends to implement the missions recommended for NASA to conduct as described in subsection (a), whether by means of dedicated NASA missions, multi-agency missions, international cooperative missions, data sharing, or commercial data buys, or by means of long-term technology development to determine whether specific missions would be executable at a reasonable cost and within a reasonable schedule.

SEC. 204. TRANSITIONING EXPERIMENTAL RESEARCH INTO OPERATIONAL SERVICES.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that experimental NASA sensors and missions that have the potential to benefit society if transitioned into operational monitoring systems be transitioned into operational status whenever possible.

(b) INTERAGENCY PROCESS.—The Director of OSTP, in consultation with the Administrator, the Administrator of NOAA, and

other relevant stakeholders, shall develop a process to transition, when appropriate, NASA Earth science and space weather missions or sensors into operational status. The process shall include coordination of annual agency budget requests as required to execute the transitions.

(c) RESPONSIBLE AGENCY OFFICIAL.—The Administrator and the Administrator of NOAA shall each designate an agency official who shall have the responsibility for and authority to lead NASA's and NOAA's transition activities and interagency coordination.

(d) PLAN.—For each mission or sensor that is determined to be appropriate for transition under subsection (b), NASA and NOAA shall transmit to Congress a joint plan for conducting the transition. The plan shall include the strategy, milestones, and budget required to execute the transition. The transition plan shall be transmitted to Congress not later than 60 days after the successful completion of the mission or sensor critical design review.

SEC. 205. LANDSAT THERMAL INFRARED DATA CONTINUITY.

(a) PLAN.—In view of the importance of Landsat thermal infrared data for both scientific research and water management applications, the Administrator shall prepare a plan for ensuring the continuity of Landsat thermal infrared data or its equivalent, including allocation of costs and responsibility for the collection and distribution of the data, and a budget plan. As part of the plan, the Administrator shall provide an option for developing a thermal infrared sensor at minimum cost to be flown on the Landsat Data Continuity Mission with minimum delay to the schedule of the Landsat Data Continuity Mission.

(b) DEADLINE.—The plan shall be provided to Congress not later than 60 days after the date of enactment of this Act.

SEC. 206. REAUTHORIZATION OF GLORY MISSION.

(a) REAUTHORIZATION.—Congress reauthorizes NASA to continue with development of the Glory Mission, which will examine how aerosols and solar energy affect the Earth's climate.

(b) BASELINE REPORT.—Pursuant to the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109-155), not later than 90 days after the date of enactment of this Act, the Administrator shall transmit a new baseline report consistent with section 103(b)(2) of such Act. The report shall include an analysis of the factors contributing to cost growth and the steps taken to address them.

SEC. 207. PLAN FOR DISPOSITION OF DEEP SPACE CLIMATE OBSERVATORY.

(a) PLAN.—NASA shall develop a plan for the Deep Space Climate Observatory (DSCOVR), including such options as using the parts of the spacecraft in the development and assembly of other science missions, transferring the spacecraft to another agency, reconfiguring the spacecraft for another Earth science mission, establishing a public-private partnership for the mission, and entering into an international cooperative partnership to use the spacecraft for its primary or other purposes. The plan shall include an estimate of budgetary resources and schedules required to implement each of the options.

(b) CONSULTATION.—NASA shall consult, as necessary, with NOAA and other Federal agencies, industry, academic institutions, and international space agencies in developing the plan.

(c) REPORT.—The Administrator shall transmit the plan required under subsection (a) to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the date of enactment of this Act.

SEC. 208. TORNADOES AND OTHER SEVERE STORMS.

The Administrator shall ensure that NASA gives high priority to those parts of its existing cooperative activities with NOAA that are related to the study of tornadoes and other severe storms, tornado-force winds, and other factors determined to influence the development of tornadoes and other severe storms, with the goal of improving the Nation's ability to predict tornados and other severe storms. Further, the Administrator shall examine whether there are additional cooperative activities with NOAA that should be undertaken in the area of tornado and severe storm research.

TITLE III—AERONAUTICS

SEC. 301. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) aeronautics research continues to be an important core element of NASA's mission and should be supported;

(2) NASA aeronautics research should be guided by and consistent with the national policy to guide aeronautics research and development programs of the United States developed in accordance with section 101(c) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16611); and

(3) technologies developed by NASA as described in paragraph (2) would help to secure the leadership role of the United States in global aviation and greatly enhance competitiveness of the United States in aeronautics in the future.

SEC. 302. ENVIRONMENTALLY FRIENDLY AIRCRAFT RESEARCH AND DEVELOPMENT INITIATIVE.

The Administrator shall establish an initiative involving NASA, universities, industry, and other research organizations as appropriate, of research, development, and demonstration, in a relevant environment, of technologies to enable the following commercial aircraft performance characteristics:

(1) Noise levels on takeoff and on airport approach and landing that do not exceed ambient noise levels in the absence of flight operations in the vicinity of airports from which such commercial aircraft would normally operate, without increasing energy consumption or nitrogen oxide emissions compared to aircraft in commercial service as of the date of enactment of this Act.

(2) Significant reductions in greenhouse gas emissions compared to aircraft in commercial services as of the date of enactment of this Act.

SEC. 303. RESEARCH ALIGNMENT.

In addition to pursuing the research and development initiative described in section 302, the Administrator shall, to the maximum extent practicable within available funding, align the fundamental aeronautics research program to address high priority technology challenges of the National Academies' Decadal Survey of Civil Aeronautics, and shall work to increase the degree of involvement of external organizations, and especially of universities, in the fundamental aeronautics research program.

SEC. 304. RESEARCH PROGRAM TO DETERMINE PERCEIVED IMPACT OF SONIC BOOMS.

(a) IN GENERAL.—The ability to fly commercial aircraft over land at supersonic speeds without adverse impacts on the environment or on local communities would open new markets and enable new transportation capabilities. In order to have the basis for establishing appropriate sonic boom standards for such flight operations, a research program is needed to assess the impact in a relevant environment of commercial supersonic flight operations.

(b) ESTABLISHMENT.—The Administrator shall establish a cooperative research program with industry, including the conduct of flight demonstrations in a relevant environment, to collect data on the perceived impact of sonic booms. The data could enable the promulgation of appropriate standards for overland commercial supersonic flight operations.

(c) COORDINATION.—The Administrator shall ensure that sonic boom research is coordinated as appropriate with the Administrator of the Federal Aviation Administration, and as appropriate make use of the expertise of the Partnership for Air Transportation Noise and Emissions Reduction Center of Excellence sponsored by NASA and the Federal Aviation Administration.

SEC. 305. EXTERNAL REVIEW OF NASA'S AVIATION SAFETY-RELATED RESEARCH PROGRAMS.

(a) REVIEW.—The Administrator shall enter into an arrangement with the National Research Council for an independent review of NASA's aviation safety-related research programs. The review shall assess whether—

(1) the programs have well-defined, prioritized, and appropriate research objectives;

(2) the programs are properly coordinated with the safety research programs of the Federal Aviation Administration and other relevant Federal agencies;

(3) the programs have allocated appropriate resources to each of the research objectives; and

(4) suitable mechanisms exist for transitioning the research results from the programs into operational technologies and procedures and certification activities in a timely manner.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the review required in subsection (a).

SEC. 306. AVIATION WEATHER RESEARCH PLAN.

The Administrator and the Administrator of NOAA shall develop a collaborative research plan on convective weather events. The goal of the research is to significantly improve the reliability of 2-hour to 6-hour aviation weather forecasts. Within 270 days after the date of enactment of this Act, the Administrator and the Administrator of NOAA shall submit this plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives.

SEC. 307. FUNDING FOR RESEARCH AND DEVELOPMENT ACTIVITIES IN SUPPORT OF OTHER MISSION DIRECTORATES.

Research and development activities performed by the Aeronautics Research Mission Directorate with the primary objective of assisting in the development of a flight project in another Mission Directorate shall be funded by the Mission Directorate seeking assistance.

SEC. 308. ENHANCEMENT OF GRANT PROGRAM ON ESTABLISHMENT OF UNIVERSITY-BASED CENTERS FOR RESEARCH ON AVIATION TRAINING.

Section 427(a) of the National Aeronautics and Space Administration Authorization Act of 2005 (Public Law 109–155) is amended by striking ''may'' and inserting ''shall''.

TITLE IV—EXPLORATION INITIATIVE

SEC. 401. SENSE OF CONGRESS.

It is the sense of Congress that the President of the United States should invite

America's friends and allies to participate in a long-term international initiative under the leadership of the United States to expand human and robotic presence into the solar system, including the exploration and utilization of the Moon, near Earth asteroids, Lagrangian points, and eventually Mars and its moons, among other exploration and utilization goals. When appropriate, the United States should lead confidence building measures that advance the long-term initiative for international cooperation.

SEC. 402. REAFFIRMATION OF EXPLORATION POLICY.

Congress hereby affirms its support for—

(1) the broad goals of the space exploration policy of the United States, including the eventual return to and exploration of the Moon and other destinations in the solar system and the important national imperative of independent access to space;

(2) the development of technologies and operational approaches that will enable a sustainable long-term program of human and robotic exploration of the solar system;

(3) activity related to Mars exploration, particularly for the development and testing of technologies and mission concepts needed for eventual consideration of optional mission architectures, pursuant to future authority to proceed with the consideration and implementation of such architectures; and

(4) international participation and cooperation, as well as commercial involvement in space exploration activities.

SEC. 403. STEPPING STONE APPROACH TO EXPLORATION.

In order to maximize the cost-effectiveness of the long-term exploration and utilization activities of the United States, the Administrator shall take all necessary steps, including engaging international partners, to ensure that activities in its lunar exploration program shall be designed and implemented in a manner that gives strong consideration to how those activities might also help meet the requirements of future exploration and utilization activities beyond the Moon. The timetable of the lunar phase of the long-term international exploration initiative shall be determined by the availability of funding. However, once an exploration-related project enters its development phase, the Administrator shall seek, to the maximum extent practicable, to complete that project without undue delays.

SEC. 404. LUNAR OUTPOST.

(a) ESTABLISHMENT.—As NASA works toward the establishment of a lunar outpost, NASA shall make no plans that would require a lunar outpost to be occupied to maintain its viability. Any such outpost shall be operable as a human-tended facility capable of remote or autonomous operation for extended periods.

(b) DESIGNATION.—The United States portion of the first human-tended outpost established on the surface of the Moon shall be designated the ''Neil A. Armstrong Lunar Outpost''.

(c) SENSE OF CONGRESS.—It is the sense of Congress that NASA should make use of commercial services to the maximum extent practicable in support of its lunar outpost activities.

SEC. 405. EXPLORATION TECHNOLOGY DEVELOPMENT.

(a) IN GENERAL.—A robust program of long-term exploration-related technology research and development will be essential for the success and sustainability of any enduring initiative of human and robotic exploration of the solar system.

(b) ESTABLISHMENT.—The Administrator shall carry out a program of long-term exploration-related technology research and development, including such things as in-space propulsion, power systems, life support, and advanced avionics, that is not tied to specific flight projects. The program shall have the funding goal of ensuring that the technology research and development can be completed in a timely manner in order to support the safe, successful, and sustainable exploration of the solar system. In addition, in order to ensure that the broadest range of innovative concepts and technologies are captured, the long-term technology program shall have the goal of having a significant portion of its funding available for external grants and contracts with universities, research institutions, and industry.

SEC. 406. EXPLORATION RISK MITIGATION PLAN.

(a) PLAN.—The Administrator shall prepare a plan that identifies and prioritizes the human and technical risks that will need to be addressed in carrying out human exploration beyond low Earth orbit and the research and development activities required to address those risks. The plan shall address the role of the International Space Station in exploration risk mitigation and include a detailed description of the specific steps being taken to utilize the International Space Station for that purpose.

(b) REPORT.—The Administrator shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the plan described in subsection (a) not later than one year after the date of enactment of this Act.

SEC. 407. EXPLORATION CREW RESCUE.

In order to maximize the ability to rescue astronauts whose space vehicles have become disabled, the Administrator shall enter into discussions with the appropriate representatives of spacefaring nations who have or plan to have crew transportation systems capable of orbital flight or flight beyond low Earth orbit for the purpose of agreeing on a common docking system standard.

SEC. 408. PARTICIPATORY EXPLORATION.

(a) IN GENERAL.—The Administrator shall develop a technology plan to enable dissemination of information to the public to allow the public to experience missions to the Moon, Mars, or other bodies within our solar system by leveraging advanced exploration technologies. The plan shall identify opportunities to leverage technologies in NASA's Constellation systems that deliver a rich, multi-media experience to the public, and that facilitate participation by the public, the private sector, nongovernmental organizations, and international partners. Technologies for collecting high-definition video, 3-dimensional images, and scientific data, along with the means to rapidly deliver this content through extended high bandwidth communications networks, shall be considered as part of this plan. It shall include a review of high bandwidth radio and laser communications, high-definition video, stereo imagery, 3-dimensional scene cameras, and Internet routers in space, from orbit, and on the lunar surface. The plan shall also consider secondary cargo capability for technology validation and science mission opportunities. In addition, the plan shall identify opportunities to develop and demonstrate these technologies on the International Space Station and robotic missions to the Moon, Mars, and other solar system bodies. As part of the technology plan, the Administrator shall examine the feasibility of having NASA enter into contracts and other agreements with appropriate public, private sector, and international partners to broadcast electronically, including via the Internet, images and multimedia records delivered from its missions in space to the public, and shall identify issues associated with such contracts and other agreements. In any such contracts and other agreements, NASA shall adhere to a transparent bidding process to award such contracts and other agreements, pursuant to United States law. As part of this plan, the Administrator shall include estimates of associated costs.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit the plan to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 409. SCIENCE AND EXPLORATION.

It is the sense of Congress that NASA's scientific and human exploration activities are synergistic; science enables exploration and human exploration enables science. The Congress encourages the Administrator to coordinate, where practical, NASA's science and exploration activities with the goal of maximizing the success of human exploration initiatives and furthering our understanding of the Universe that we explore.

SEC. 410. CONGRESSIONAL BUDGET OFFICE REPORT UPDATE.

Not later than 6 months after the date of enactment of this Act, the Congressional Budget Office shall update its report from 2004 on the budgetary analysis of NASA's Vision for the Nation's Space Exploration Program, including new estimates for Project Constellation, NASA's new generation of spacecraft designed for human space flight that will replace the Space Shuttle program.

TITLE V—SPACE SCIENCE

SEC. 501. TECHNOLOGY DEVELOPMENT.

The Administrator shall establish an intra-Directorate long-term technology development program for space and Earth science within the Science Mission Directorate for the development of new technology. The program shall be independent of the flight projects under development. NASA shall have a goal of funding the intra-Directorate technology development program at a level of 5 percent of the total Science Mission Directorate annual budget. The program shall be structured to include competitively awarded grants and contracts.

SEC. 502. PROVISION FOR FUTURE SERVICING OF OBSERVATORY-CLASS SCIENTIFIC SPACECRAFT.

The Administrator shall take all necessary steps to ensure that provision is made in the design and construction of all future observatory-class scientific spacecraft intended to be deployed in Earth orbit or at a Lagrangian point in space for robotic or human servicing and repair to the extent practicable and appropriate.

SEC. 503. MARS EXPLORATION.

Congress reaffirms its support for a systematic, integrated program of exploration of the Martian surface to examine the planet whose surface is most like Earth's, to search for evidence of past or present life, and to examine Mars for future habitability and as a long-term goal for future human exploration. To the extent affordable and practical, the program should pursue the goal of launches at every Mars launch opportunity, leading to an eventual robotic sample return.

SEC. 504. IMPORTANCE OF A BALANCED SCIENCE PROGRAM.

It is the sense of Congress that a balanced and adequately funded set of activities, consisting of NASA's research and analysis grants programs, technology development, small-, medium-, and large-sized space science missions, and suborbital research activities, contributes to a robust and productive science program and serves as a catalyst for innovation.

SEC. 505. SUBORBITAL RESEARCH ACTIVITIES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that suborbital flight activities, including the use of sounding rockets, aircraft, and high-altitude balloons, and suborbital reusable launch vehicles, offer valuable opportunities to advance science, train the next generation of scientists and engineers, and provide opportunities for participants in the programs to acquire skills in systems engineering and systems integration that are critical to maintaining the Nation's leadership in space programs. The Congress believes that it is in the national interest to expand the size of NASA's suborbital research program. It is further the sense of Congress that funding for suborbital research activities should be considered part of the contribution of NASA to United States competitive and educational enhancement and should represent increased funding as contemplated in section 2001 of the America COMPETES Act (42 U.S.C. 16611(a)).

(b) REVIEW OF SUBORBITAL MISSION CAPABILITIES.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall enter into an arrangement with the National Academies to conduct a review of the suborbital mission capabilities of NASA.

(2) MATTERS REVIEWED.—The review required by paragraph (1) shall include a review of the following:

(A) Existing programs that make use of suborbital flights.

(B) The status, capability, and availability of suborbital platforms, and the infrastructure and workforce necessary to support them.

(C) Existing or planned launch facilities for suborbital missions.

(D) Opportunities for scientific research, training, and educational collaboration in the conduct of suborbital missions by NASA, especially as they relate to the findings and recommendations of the National Academies decadal surveys and report on ''Building a Better NASA Workforce: Meeting the Workforce Needs for the National Vision for Space Exploration''.

(3) REPORT.—

(A) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the review required by this subsection.

(B) CONTENTS.—The report required by this paragraph shall include a summary of the review; the findings of the Administrator with respect to such review; recommendations regarding the growth of suborbital launch programs conducted by NASA; and the steps necessary to ensure such programs are conducted using domestic launch facilities to the maximum extent practicable, including any rationale and justification for using nondomestic facilities for such missions.

SEC. 506. RESTORATION OF RADIOISOTOPE THERMOELECTRIC GENERATOR MATERIAL PRODUCTION.

(a) PLAN.—The Director of OSTP shall develop a plan for restarting and sustaining the domestic production of radioisotope thermoelectric generator material for deep space and other space science missions.

(b) REPORT.—The plan developed under subsection (a) shall be transmitted to Congress not later than 270 days after the date of enactment of this Act.

SEC. 507. ASSESSMENT OF IMPEDIMENTS TO INTERAGENCY COOPERATION ON SPACE AND EARTH SCIENCE MISSIONS.

(a) ASSESSMENTS.—The Administrator, in consultation with other agencies with space science programs, shall enter into an arrangement with the National Academies to assess impediments, including cost growth, to the successful conduct of interagency cooperation on space science missions, to provide lessons learned and best practices, and to recommend steps to help facilitate successful interagency collaborations on space science missions. As part of the same arrangement with the National Academies, the Administrator, in consultation with NOAA and other agencies with civil Earth observation systems, shall have the National Academies assess impediments, including cost growth, to the successful conduct of interagency cooperation on Earth science missions, to provide lessons learned and best practices, and to recommend steps to help facilitate successful interagency collaborations on Earth science missions.

(b) REPORT.—The report of the assessments carried out under subsection (a) shall be transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 15 months after the date of enactment of this Act.

SEC. 508. ASSESSMENT OF COST GROWTH.

(a) STUDY.—The Administrator shall enter into an arrangement for an independent external assessment to identify the primary causes of cost growth in the large-, medium-, and small-sized space and Earth science spacecraft mission classes, and make recommendations as to what changes, if any, should be made to contain costs and ensure frequent mission opportunities in NASA's science spacecraft mission programs.

(b) REPORT.—The report of the assessment conducted under subsection (a) shall be submitted to Congress not later than 15 months after the date of enactment of this Act.

SEC. 509. OUTER PLANETS EXPLORATION.

It is the sense of Congress that the outer solar system planets and their satellites can offer important knowledge about the formation and evolution of the solar system, the nature and diversity of these solar system bodies, and the potential for conditions conducive to life beyond Earth. NASA should move forward with plans for an Outer Planets flagship mission to the Europa-Jupiter system or the Titan-Saturn system as soon as practicable within a balanced Planetary Science program.

TITLE VI—SPACE OPERATIONS

Subtitle A—International Space Station

SEC. 601. PLAN TO SUPPORT OPERATION AND UTILIZATION OF THE ISS BEYOND FISCAL YEAR 2015.

(a) IN GENERAL.—The Administrator shall take all necessary steps to ensure that the International Space Station remains a viable and productive facility capable of potential United States utilization through at least 2020 and shall take no steps that would preclude its continued operation and utilization by the United States after 2015.

(b) PLAN TO SUPPORT OPERATIONS AND UTILIZATION OF THE INTERNATIONAL SPACE STATION BEYOND FISCAL YEAR 2015.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to support the operations and utilization of the International Space Station beyond fiscal year 2015 for a period of not less than 5 years. The plan shall be an update and expansion of the operation plan of the International Space Station National Laboratory submitted to Congress in May 2007 under section 507 of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16767).

(2) CONTENT.—

(A) REQUIREMENTS TO SUPPORT OPERATION AND UTILIZATION OF THE ISS BEYOND FISCAL YEAR 2015.—As part of the plan required in paragraph (1), the Administrator shall provide each of the following:

(i) A list of critical hardware necessary to support International Space Station operations through the year 2020.

(ii) Specific known or anticipated maintenance actions that would need to be performed to support International Space Station operations and research through the year 2020.

(iii) Annual upmass and downmass requirements, including potential vehicles that will deliver such upmass and downmass, to support the International Space Station after the retirement of the Space Shuttle Orbiter and through the year 2020.

(B) ISS NATIONAL LABORATORY RESEARCH MANAGEMENT PLAN.—As part of the plan required in paragraph (1), the Administrator shall develop a Research Management Plan for the International Space Station. Such Plan shall include a process for selecting and prioritizing research activities (including fundamental, applied, commercial, and other research) for flight on the International Space Station. Such Plan shall be used to prioritize resources such as crew time, racks and equipment, and United States access to international research facilities and equipment. Such Plan shall also identify the organization to be responsible for managing United States research on the International Space Station, including a description of the relationship of the management institution with NASA (e.g., internal NASA office, contract, cooperative agreement, or grant), the estimated length of time for the arrangement, and the budget required to support the management institution. Such Plan shall be developed in consultation with other Federal agencies, academia, industry, and other relevant stakeholders. The Administrator may request the support of the National Academy of Sciences or other appropriate independent entity, including an external consultant, in developing the Plan.

(C) ESTABLISHMENT OF PROCESS FOR ACCESS TO NATIONAL LABORATORY.—As part of the plan required in paragraph (1), the Administrator shall—

(i) establish a process by which to support International Space Station National Laboratory users in identifying their requirements for transportation of research supplies to and from the International Space Station, and for communicating those requirements to NASA and International Space Station transportation services providers; and

(ii) develop an estimate of the transportation requirements needed to support users of the International Space Station National Laboratory and develop a plan for satisfying those requirements by dedicating a portion of volume on NASA supply missions to the International Space Station.

(D) ASSESSMENT OF EQUIPMENT TO SUPPORT RESEARCH.—As part of the plan required in paragraph (1), the Administrator shall—

(i) provide a list of critical hardware that is anticipated to be necessary to support nonexploration-related and exploration-related research through the year 2020;

(ii) identify existing research equipment and racks and support equipment that are manifested for flight; and

(iii) provide a detailed description of the status of research equipment and facilities that were completed or in development prior to being cancelled, and provide the budget and milestones for completing and preparing the equipment for flight on the International Space Station.

(E) BUDGET PLAN.—As part of the plan required in paragraph (1), the Administrator shall provide a budget plan that reflects the anticipated use of such activities and the projected amounts to be required for fiscal years 2010 through 2020 to accomplish the objectives of the activities described in subparagraphs (A) through (D).

SEC. 602. INTERNATIONAL SPACE STATION NATIONAL LABORATORY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish under the Federal Advisory Committee Act a committee to be known as the ''International Space Station National Laboratory Advisory Committee'' (hereafter in this section referred to as the ''Committee'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Committee shall be composed of individuals representing organizations who have formal agreements with NASA to utilize the United States portion of the International Space Station, including allocations within partner elements.

(2) CHAIR.—The Administrator shall appoint a chair from among the members of the Committee, who shall serve for a 2-year term.

(c) DUTIES OF THE COMMITTEE.—

(1) IN GENERAL.—The Committee shall monitor, assess, and make recommendations regarding effective utilization of the International Space Station as a national laboratory and platform for research.

(2) ANNUAL REPORT.—The Committee shall submit to the Administrator, on an annual basis or more frequently as considered necessary by a majority of the members of the Committee, a report containing the assessments and recommendations required by paragraph (1).

(d) DURATION.—The Committee shall exist for the life of the International Space Station.

SEC. 603. CONTINGENCY PLAN FOR CARGO RESUPPLY.

(a) IN GENERAL.—The International Space Station represents a significant investment of national resources, and it is a facility that embodies a cooperative international approach to the exploration and utilization of space. As such, it is important that its continued viability and productivity be ensured, to the maximum extent possible, after the Space Shuttle is retired.

(b) CONTINGENCY PLAN.—The Administrator shall develop a contingency plan and arrangements, including use of International Space Station international partner cargo resupply capabilities, to ensure the continued viability and productivity of the International Space Station in the event that United States commercial cargo resupply services are not available during any extended period after the date that the Space Shuttle is retired. The plan shall be delivered to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than one year after the date of enactment of this Act.

SEC. 604. SENSE OF CONGRESS ON USE OF SPACE LIFE SCIENCES LABORATORY AT KENNEDY SPACE CENTER.

It is the sense of Congress that the Space Life Sciences Laboratory at Kennedy Space Center represents a key investment and asset in the International Space Station National Laboratory capability. The laboratory is specifically designed to provide pre-flight, in-flight, and post-flight support services for International Space Station end-users, and should be utilized in this manner when appropriate.

Subtitle B—Space Shuttle

SEC. 611. SPACE SHUTTLE FLIGHT REQUIREMENTS.

(a) REPORT ON U.S. HUMAN SPACEFLIGHT CAPABILITIES.—Section 501(c) of the National Aeronautics and Space Administration Authorization Act of 2005 (42 U.S.C. 16761(c)) is amended by striking the matter before paragraph (1) and inserting the following: ''Not later than 90 days after the date of enactment of the National Aeronautics and Space Administration Authorization Act of 2008, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives a report on the lack of a United States human space flight system to replace the Space Shuttle upon its planned retirement, currently scheduled for 2010, and the ability of the United States to uphold the policy described in subsection (a), including a description of—''.

(b) BASELINE MANIFEST.—In addition to the Space Shuttle flights listed as part of the baseline flight manifest as of January 1, 2008, the Utilization flights ULF–4 and ULF–5 shall be considered part of the Space Shuttle baseline flight manifest and shall be flown prior to the retirement of the Space Shuttle, currently scheduled for 2010.

(c) ADDITIONAL FLIGHT TO DELIVER THE ALPHA MAGNETIC SPECTROMETER AND OTHER SCIENTIFIC EQUIPMENT AND PAYLOADS TO THE INTERNATIONAL SPACE STATION.—

(1) IN GENERAL.—In addition to the flying of the baseline manifest as described in subsection (b), the Administrator shall take all necessary steps to fly one additional Space Shuttle flight to deliver the Alpha Magnetic Spectrometer and other scientific equipment and payloads to the International Space Station prior to the retirement of the Space Shuttle. The purpose of the mission required to be planned under this subsection shall be to ensure the active use of the United States portion of the International Space Station as a National Laboratory by the delivery of the Alpha Magnetic Spectrometer, and to the extent practicable, the delivery of flight-ready research experiments prepared under the Memoranda of Understanding between NASA and other entities to facilitate the utilization of the International Space Station National Laboratory, as well as other fundamental and applied life sciences and other microgravity research experiments to the International Space Station as soon as the assembly of the International Space Station is completed.

(2) FLIGHT SCHEDULE.—If the Administrator, within 12 months before the scheduled date of the additional Space Shuttle flight authorized by paragraph (1), determines that—

(A) NASA will be unable to meet that launch date before the end of calendar year 2010, unless the President decides to extend Shuttle operations beyond 2010, or

(B) implementation of the additional flight requirement would, in and of itself, result in—

(i) significant increased costs to NASA over the cost estimate of the additional flight as determined by the Independent Program Assessment Office, or

(ii) unacceptable safety risks associated with making the flight before termination of the Space Shuttle program,

the Administrator shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science and Technology of the determination, and provide a detailed explanation of the basis for that determination. After the notification is provided to the Committees, the Administrator shall remove the flight from the Space Shuttle schedule unless the Congress by law reauthorizes the flight or the President certifies that it is in the national interest to fly the mission.

(d) TERMINATION OR SUSPENSION OF ACTIVITIES THAT WOULD PRECLUDE CONTINUED FLIGHT OF SPACE SHUTTLE PRIOR TO REVIEW BY THE INCOMING 2009 PRESIDENTIAL ADMINISTRATION.—

(1) IN GENERAL.—The Administrator shall terminate or suspend any activity of the Agency that, if continued between the date of enactment of this Act and April 30, 2009, would preclude the continued safe and effective flight of the Space Shuttle after fiscal year 2010 if the first President inaugurated on January 20, 2009, were to make a determination to delay the Space Shuttle's scheduled retirement.

(2) REPORT ON IMPACT OF COMPLIANCE.—Within 90 days after the date of enactment of this Act, the Administrator shall provide a report to the Congress describing the expected budgetary and programmatic impacts from compliance with paragraph (1). The report shall include—

(A) a summary of the actions taken to ensure the option to continue space shuttle flights beyond the end of fiscal year 2010 is not precluded before April 30, 2009;

(B) an estimate of additional costs incurred by each specific action identified in the summary provided under subparagraph (A);

(C) a description of the proposed plan for allocating those costs among anticipated fiscal year 2009 appropriations or existing budget authority;

(D) a description of any programmatic impacts within the Space Operations Mission Directorate that would result from reallocations of funds to meet the requirements of paragraph (1);

(E) a description of any additional authority needed to enable compliance with the requirements of paragraph (1); and

(F) a description of any potential disruption to the timely progress of development milestones in the preparation of infrastructure or work-force requirements for shuttle follow-on launch systems.

(e) REPORT ON IMPACTS OF SPACE SHUTTLE EXTENSION.—Within 120 days after the date of enactment of this Act, the Administrator shall provide a report to the Congress outlining options, impacts, and associated costs of ensuring the safe and effective operation of the Space Shuttle at the minimum rate necessary to support International Space Station operations and resupply, including for both a near-term, 1- to 2-year extension of Space Shuttle operations and for a longer term, 3- to 6-year extension. The report shall include an assessment of—

(1) annual fixed and marginal costs, including identification and cost impacts of options for cost-sharing with the Constellation program and including the impact of those cost-sharing options on the Constellation program;

(2) the safety of continuing the use of the Space Shuttle beyond 2010, including a probability risk assessment of a catastrophic accident before completion of the extended Space Shuttle flight program, the underlying assumptions used in calculating that probability, and comparing the associated safety risks with those of other existing and planned human-rated launch systems, including the Soyuz and Constellation vehicles;

(3) a description of the activities and an estimate of the associated costs that would be needed to maintain or improve Space Shuttle safety throughout the periods described in the first sentence of this subsection were the President inaugurated on January 20,

2009, to extend Space Shuttle operations beyond 2010, the correctly anticipated date of Space Shuttle retirement;

(4) the impacts on facilities, workforce, and resources for the Constellation program and on the cost and schedule of that program;

(5) assumptions regarding workforce, skill mix, launch and processing infrastructure, training, ground support, orbiter maintenance and vehicle utilization, and other relevant factors, as appropriate, used in deriving the cost and schedule estimates for the options studied;

(6) the extent to which program management, processes, and workforce and contractor assignments can be integrated and streamlined for maximum efficiency to support continued shuttle flights while transitioning to the Constellation program, including identification of associated cost impacts on both the Space Shuttle and the Constellation program;

(7) the impact of a Space Shuttle flight program extention on the United States' dependence on Russia for International Space Station crew rescue services; and

(8) the potential for enhancements of International Space Station research, logistics, and maintenance capabilities resulting from extended Shuttle flight operations and the costs associated with implementing any such enhancements.

SEC. 612. UNITED STATES COMMERCIAL CARGO CAPABILITY STATUS.

The Administrator shall determine the degree to which an increase in the amounts authorized to be appropriated under section 101(3) for the Commercial Orbital Transportation Services project to be used by Phase One team members of such project in fiscal year 2009 would reasonably be expected to accelerate development of Capabilities A, B, and C of such project to an effective operations capability as close to 2010 as possible.

SEC. 613. SPACE SHUTTLE TRANSITION.

(a) DISPOSITION OF SHUTTLE-RELATED ASSETS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to Congress a plan describing the process for the disposition of the remaining Space Shuttle Orbiters and other Space Shuttle program-related hardware after the retirement of the Space Shuttle fleet.

(2) PLAN REQUIREMENTS.—The plan submitted under paragraph (1) shall include a description of a process by which educational institutions, science museums, and other appropriate organizations may acquire, through loan or disposal by the Federal Government, Space Shuttle program hardware.

(3) PROHIBITION ON DISPOSITION BEFORE COMPLETION OF PLAN.—The Administrator shall not dispose of any Space Shuttle program hardware before the plan required by paragraph (1) is submitted to Congress.

(b) SPACE SHUTTLE TRANSITION LIAISON OFFICE.—

(1) ESTABLISHMENT.—The Administrator shall develop a plan and establish a Space Shuttle Transition Liaison Office within the Office of Human Capital Management of NASA to assist local communities affected by the termination of the Space Shuttle program in mitigating the negative impacts on such communities caused by such termination. The plan shall define the size of the affected local community that would receive assistance described in paragraph (2).

(2) MANNER OF ASSISTANCE.—In providing assistance under paragraph (1), the office established under such paragraph shall—

(A) offer nonfinancial, technical assistance to communities described in such paragraph to assist in the mitigation described in such paragraph; and

(B) serve as a clearinghouse to assist such communities in identifying services available from other Federal, State, and local agencies to assist in such mitigation.

(3) TERMINATION OF OFFICE.—The office established under paragraph (1) shall terminate 2 years after the completion of the last Space Shuttle flight.

(4) SUBMISSION.—Not later than 180 days after the date of enactment of this Act, NASA shall provide a copy of the plan required by paragraph (1) to the Congress.

SEC. 614. AEROSPACE SKILLS RETENTION AND INVESTMENT REUTILIZATION REPORT.

(a) IN GENERAL.—The Administrator shall, in consultation with other Federal agencies, as appropriate—

(1) carry out an analysis of the facilities and human capital resources that will become available as a result of the retirement of the Space Shuttle program; and

(2) identify on-going or future Federal programs and projects that could use such facilities and resources.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report—

(1) on the analysis required by paragraph (1) of subsection (a), including the findings of the Administrator with respect to such analysis; and

(2) describing the programs and projects identified under paragraph (2) of such subsection.

SEC. 615. TEMPORARY CONTINUATION OF COVERAGE OF HEALTH BENEFITS.

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(6)(A) If the basis for continued coverage under this section is, as a result of the termination of the Space Shuttle Program, an involuntary separation from a position due to a reduction-in-force or declination of a directed reassignment or transfer of function, or a voluntary separation from a surplus position in the National Aeronautics and Space Administration—

''(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

''(ii) the National Aeronautics and Space Administration shall pay the remaining portion of the amount required under paragraph (1)(A).

''(B) This paragraph shall only apply with respect to individuals whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before December 31, 2010.

''(C) For purposes of this paragraph, 'surplus position' means a position which is—

''(i) identified in pre-reduction-in-force planning as no longer required, and which is expected to be eliminated under formal reduction-in-force procedures as a result of the termination of the Space Shuttle Program; or

''(ii) encumbered by an employee who has received official certification from the National Aeronautics and Space Administration consistent with the Administration's career transition assistance program regulations that the position is being abolished as a result of the termination of the Space Shuttle Program.''.

(b) CONFORMING AMENDMENT.—Paragraph (1)(A) of such subsection (d) is amended by striking ''(4) and (5)'' and inserting ''(4), (5), and (6)''.

SEC. 616. ACCOUNTING REPORT.

Within 180 days after the date of enactment of this Act, the Administrator shall provide to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that will summarize any actions taken or planned to be taken during fiscal years 2008 and 2009 to begin reductions in expenditures and activities related to the Space Shuttle program. The report shall include a summary of any actual or anticipated cost savings to the Space Shuttle program relative to the FY 2008 and FY 2009 Space Shuttle program budgets and runout projections as a result of such actions, as well as a summary of any actual or anticipated liens or budgetary challenges to the Space Shuttle program during fiscal years 2008 and 2009.

Subtitle C—Launch Services

SEC. 621. LAUNCH SERVICES STRATEGY.

(a) IN GENERAL.—In preparation for the award of contracts to follow up on the current NASA Launch Services (NLS) contracts, the Administrator shall develop a strategy for providing domestic commercial launch services in support of NASA's small and medium-sized Science, Space Operations, and Exploration missions, consistent with current law and policy.

(b) REPORT.—The Administrator shall transmit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the strategy developed under subsection (a) not later than 90 days after the date of enactment of this Act. The report shall provide, at a minimum—

(1) the results of the Request for Information on small to medium-sized launch services released on April 22, 2008;

(2) an analysis of possible alternatives to maintain small and medium-sized lift capabilities after June 30, 2010, including the use of the Department of Defense's Evolved Expendable Launch Vehicle (EELV);

(3) the recommended alternatives, and associated 5-year budget plans starting in October 2010 that would enable their implementation; and

(4) a contingency plan in the event the recommended alternatives described in paragraph (3) are not available when needed.

TITLE VII—EDUCATION

SEC. 701. RESPONSE TO REVIEW.

(a) PLAN.—The Administrator shall prepare a plan identifying actions taken or planned in response to the recommendations of the National Academies report, ''NASA's Elementary and Secondary Education Program: Review and Critique''. For those actions that have not been implemented, the plan shall include a schedule and budget required to support the actions.

(b) REPORT.—The plan prepared under subsection (a) shall be transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

SEC. 702. EXTERNAL REVIEW OF EXPLORER SCHOOLS PROGRAM.

(a) REVIEW.—The Administrator shall make arrangements for an independent external review of the Explorer Schools program to evaluate its goals, status, plans, and accomplishments.

(b) REPORT.—The report of the independent external review shall be transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

SEC. 703. SENSE OF CONGRESS ON EARTHKAM AND ROBOTICS COMPETITIONS.

It is the sense of Congress that NASA's educational programs are important sources

of inspiration and hands-on learning for the next generation of engineers and scientists and should be supported. In that regard, programs such as EarthKAM, which brings NASA directly into American classrooms by enabling students to talk directly with astronauts aboard the International Space Station and to take photographs of Earth from space, and NASA involvement in robotics competitions for students of all levels, are particularly worthy undertakings and NASA should support them and look for additional opportunities to engage students through NASA's space and aeronautics activities.

SEC. 704. ENHANCEMENT OF EDUCATIONAL ROLE OF NASA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the International Space Station offers a unique opportunity for Federal agencies to engage students in science, technology, engineering, and mathematics education. Congress encourages NASA to include other Federal agencies in its planning efforts to use the International Space Station National Laboratory for science, technology, engineering, and mathematics educational activities.

(b) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—In order to ensure that research expertise and talent throughout the Nation is developed and engaged in NASA research and education activities, NASA shall, as part of its annual budget submission, detail additional steps that can be taken to further integrate the participating EPSCoR States in both existing and new or emerging NASA research programs and center activities.

(c) NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM.—NASA shall continue its emphasis on the importance of education to expand opportunities for Americans to understand and participate in NASA's aeronautics and space projects by supporting and enhancing science and engineering education, research, and public outreach efforts.

TITLE VIII—NEAR-EARTH OBJECTS

SEC. 801. REAFFIRMATION OF POLICY.

(a) REAFFIRMATION OF POLICY ON SURVEYING NEAR-EARTH ASTEROIDS AND COMETS.—Congress reaffirms the policy set forth in section 102(g) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(g)) (relating to surveying near-Earth asteroids and comets).

(b) SENSE OF CONGRESS ON BENEFITS OF NEAR-EARTH OBJECT PROGRAM ACTIVITIES.—It is the sense of Congress that the near-Earth object program activities of NASA will provide benefits to the scientific and exploration activities of NASA.

SEC. 802. FINDINGS.

Congress makes the following findings:

(1) Near-Earth objects pose a serious and credible threat to humankind, as many scientists believe that a major asteroid or comet was responsible for the mass extinction of the majority of the Earth's species, including the dinosaurs, nearly 65,000,000 years ago.

(2) Several such near-Earth objects have only been discovered within days of the objects' closest approach to Earth and recent discoveries of such large objects indicate that many large near-Earth objects remain undiscovered.

(3) Asteroid and comet collisions rank as one of the most costly natural disasters that can occur.

(4) The time needed to eliminate or mitigate the threat of a collision of a potentially hazardous near-Earth object with Earth is measured in decades.

(5) Unlike earthquakes and hurricanes, asteroids and comets can provide adequate collision information, enabling the United States to include both asteroid-collision and comet-collision disaster recovery and disaster avoidance in its public-safety structure.

(6) Basic information is needed for technical and policy decisionmaking for the United States to create a comprehensive program in order to be ready to eliminate and mitigate the serious and credible threats to humankind posed by potentially hazardous near-Earth asteroids and comets.

(7) As a first step to eliminate and to mitigate the risk of such collisions, situation and decision analysis processes, as well as procedures and system resources, must be in place well before a collision threat becomes known.

SEC. 803. REQUESTS FOR INFORMATION.

The Administrator shall issue requests for information on—

(1) a low-cost space mission with the purpose of rendezvousing with, attaching a tracking device, and characterizing the Apophis asteroid; and

(2) a medium-sized space mission with the purpose of detecting near-Earth objects equal to or greater than 140 meters in diameter.

SEC. 804. ESTABLISHMENT OF POLICY WITH RESPECT TO THREATS POSED BY NEAR-EARTH OBJECTS.

Within 2 years after the date of enactment of this Act, the Director of the OSTP shall—

(1) develop a policy for notifying Federal agencies and relevant emergency response institutions of an impending near-Earth object threat, if near-term public safety is at risk; and

(2) recommend a Federal agency or agencies to be responsible for—

(A) protecting the United States from a near-Earth object that is expected to collide with Earth; and

(B) implementing a deflection campaign, in consultation with international bodies, should one be necessary.

SEC. 805. PLANETARY RADAR CAPABILITY.

The Administrator shall maintain a planetary radar that is comparable to the capability provided through the Deep Space Network Goldstone facility of NASA.

SEC. 806. ARECIBO OBSERVATORY.

Congress reiterates its support for the use of the Arecibo Observatory for NASA-funded near-Earth object-related activities. The Administrator, using funds authorized in section 101(a)(1)(B), shall ensure the availability of the Arecibo Observatory's planetary radar to support these activities until the National Academies' review of NASA's approach for the survey and deflection of near-Earth objects, including a determination of the role of Arecibo, that was directed to be undertaken by the Fiscal Year 2008 Omnibus Appropriations Act, is completed.

SEC. 807. INTERNATIONAL RESOURCES.

It is the sense of Congress that, since an estimated 25,000 asteroids of concern have yet to be discovered and monitored, the United States should seek to obtain commitments for cooperation from other nations with significant resources for contributing to a thorough and timely search for such objects and an identification of their characteristics.

TITLE IX—COMMERCIAL INITIATIVES

SEC. 901. SENSE OF CONGRESS.

It is the sense of Congress that a healthy and robust commercial sector can make significant contributions to the successful conduct of NASA's space exploration program. While some activities are inherently governmental in nature, there are many other activities, such as routine supply of water, fuel, and other consumables to low Earth orbit or to destinations beyond low Earth orbit, and provision of power or communications services to lunar outposts, that potentially could be carried out effectively and efficiently by the commercial sector at some point in the future. Congress encourages NASA to look for such service opportunities and, to the maximum extent practicable, make use of the commercial sector to provide those services. It is further the sense of Congress that United States entrepreneurial space companies have the potential to develop and deliver innovative technology solutions at affordable costs. NASA is encouraged to use United States entrepreneurial space companies to conduct appropriate research and development activities. NASA is further encouraged to seek ways to ensure that firms that rely on fixed-price proposals are not disadvantaged when NASA seeks to procure technology development.

SEC. 902. COMMERCIAL CREW INITIATIVE.

(a) IN GENERAL.—In order to stimulate commercial use of space, help maximize the utility and productivity of the International Space Station, and enable a commercial means of providing crew transfer and crew rescue services for the International Space Station, NASA shall—

(1) make use of United States commercially provided International Space Station crew transfer and crew rescue services to the maximum extent practicable, if those commercial services have demonstrated the capability to meet NASA-specified ascent, entry, and International Space Station proximity operations safety requirements;

(2) limit, to the maximum extent practicable, the use of the Crew Exploration Vehicle to missions carrying astronauts beyond low Earth orbit once commercial crew transfer and crew rescue services that meet safety requirements become operational;

(3) facilitate, to the maximum extent practicable, the transfer of NASA-developed technologies to potential United States commercial crew transfer and rescue service providers, consistent with United States law; and

(4) issue a notice of intent, not later than 180 days after the date of enactment of this Act, to enter into a funded, competitively awarded Space Act Agreement with 2 or more commercial entities for a Phase 1 Commercial Orbital Transportation Services crewed vehicle demonstration program.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that funding for the program described in subsection (a)(4) shall not come at the expense of full funding of the amounts authorized under section 101(3)(A), and for future fiscal years, for Orion Crew Exploration Vehicle development, Ares I Crew Launch Vehicle development, or International Space Station cargo delivery.

(c) ADDITIONAL TECHNOLOGIES.—NASA shall make International Space Station-compatible docking adaptors and other relevant technologies available to the commercial crew providers selected to service the International Space Station.

(d) CREW TRANSFER AND CREW RESCUE SERVICES CONTRACT.—If a commercial provider demonstrates the capability to provide International Space Station crew transfer and crew rescue services and to satisfy NASA ascent, entry, and International Space Station proximity operations safety requirements, NASA shall enter into an International Space Station crew transfer and crew rescue services contract with that commercial provider for a portion of NASA's anticipated International Space Station crew transfer and crew rescue requirements from the time the commercial provider commences operations under contract with NASA through calendar year 2016, with an option to extend the period of performance through calendar year 2020.

TITLE X—REVITALIZATION OF NASA INSTITUTIONAL CAPABILITIES

SEC. 1001. REVIEW OF INFORMATION SECURITY CONTROLS.

(a) REPORT ON CONTROLS.—Not later than one year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a review of information security controls that protect NASA's information technology resources and information from inadvertent or deliberate misuse, fraudulent use, disclosure, modification, or destruction. The review shall focus on networks servicing NASA's mission directorates. In assessing these controls, the review shall evaluate—

(1) the network's ability to limit, detect, and monitor access to resources and information, thereby safeguarding and protecting them from unauthorized access;

(2) the physical access to network resources; and

(3) the extent to which sensitive research and mission data is encrypted.

(b) RESTRICTED REPORT ON INTRUSIONS.—Not later than one year after the date of enactment of this Act, and in conjunction with the report described in subsection (a), the Comptroller General shall transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a restricted report detailing results of vulnerability assessments conducted by the Government Accountability Office on NASA's network resources. Intrusion attempts during such vulnerability assessments shall be divulged to NASA senior management prior to their application. The report shall put vulnerability assessment results in the context of unauthorized accesses or attempts during the prior two years and the corrective actions, recent or ongoing, that NASA has implemented in conjunction with other Federal authorities to prevent such intrusions.

SEC. 1002. MAINTENANCE AND UPGRADE OF CENTER FACILITIES.

(a) IN GENERAL.—In order to sustain healthy Centers that are capable of carrying out NASA's missions, the Administrator shall ensure that adequate maintenance and upgrading of those Center facilities is performed on a regular basis.

(b) REVIEW.—The Administrator shall determine and prioritize the maintenance and upgrade backlog at each of NASA's Centers and associated facilities, and shall develop a strategy and budget plan to reduce that maintenance and upgrade backlog by 50 percent over the next five years.

(c) REPORT.—The Administrator shall deliver a report to Congress on the results of the activities undertaken in subsection (b) concurrently with the delivery of the fiscal year 2011 budget request.

SEC. 1003. ASSESSMENT OF NASA LABORATORY CAPABILITIES.

(a) IN GENERAL.—NASA's laboratories are a critical component of NASA's research capabilities, and the Administrator shall ensure that those laboratories remain productive.

(b) REVIEW.—The Administrator shall enter into an arrangement for an independent external review of NASA's laboratories, including laboratory equipment, facilities, and support services, to determine whether they are equipped and maintained at a level adequate to support NASA's research activities. The assessment shall also include an assessment of the relative quality of NASA's in-house laboratory equipment and facilities compared to comparable laboratories elsewhere. The results of the review shall be provided to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 18 months after the date of enactment of this Act.

SEC. 1004. STUDY AND REPORT ON PROJECT ASSIGNMENT AND WORK ALLOCATION OF FIELD CENTERS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall complete a study of all field centers of NASA, including the Michoud Assembly Facility.

(2) MATTERS STUDIED.—The study required by paragraph (1) shall include the mission and future roles and responsibilities of the field centers, including the Michoud Assembly Facility, described in paragraph (1).

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report on the study required by subsection (a)(1).

(2) CONTENT.—The report required by paragraph (1) shall include the following:

(A) A comprehensive analysis of the work allocation of all field centers of NASA, including the Michoud Assembly Facility.

(B) A description of the program and project roles, functions, and activities assigned to each field center, including the Michoud Assembly Facility.

(C) Details on how field centers, including the Michoud Assembly Facility, are selected and designated for lead and support role work assignments (including program and contract management assignments).

TITLE XI—OTHER PROVISIONS

SEC. 1101. SPACE WEATHER.

(a) PLAN FOR REPLACEMENT OF ADVANCED COMPOSITION EXPLORER AT L-1 LAGRANGIAN POINT.—

(1) PLAN.—The Director of OSTP shall develop a plan for sustaining space-based measurements of solar wind from the L-1 Lagrangian point in space and for the dissemination of the data for operational purposes. OSTP shall consult with NASA, NOAA, and other Federal agencies, and with industry, in developing the plan.

(2) REPORT.—The Director shall transmit the plan to Congress not later than 1 year after the date of enactment of this Act.

(b) ASSESSMENT OF THE IMPACT OF SPACE WEATHER ON AVIATION.—

(1) STUDY.—The Director of OSTP shall enter into an arrangement with the National Research Council for a study of the impacts of space weather on the current and future United States aviation industry, and in particular to examine the risks for Over-The-Pole (OTP) and Ultra-Long-Range (ULR) operations. The study shall—

(A) examine space weather impacts on, at a minimum, communications, navigation, avionics, and human health in flight;

(B) assess the benefits of space weather information and services to reduce aviation costs and maintain safety; and

(C) provide recommendations on how NOAA, the National Science Foundation, and other relevant agencies, can most effectively carry out research and monitoring activities related to space weather and aviation.

(2) REPORT.—A report containing the results of the study shall be provided to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 1 year after the date of enactment of this Act.

SEC. 1102. INITIATION OF DISCUSSIONS ON DEVELOPMENT OF FRAMEWORK FOR SPACE TRAFFIC MANAGEMENT.

(a) FINDING.—Congress finds that as more countries acquire the capability for launching payloads into outer space, there is an increasing need for a framework under which information intended to promote safe access into outer space, operations in outer space, and return from outer space to Earth free from physical or radio-frequency interference can be shared among those countries.

(b) DISCUSSIONS.—The Administrator shall, in consultation with such other agencies of the Federal Government as the Administrator considers appropriate, initiate discussions with the appropriate representatives of other space-faring countries to determine an appropriate frame-work under which information intended to promote safe access into outer space, operations in outer space, and return from outer space to Earth free from physical or radio-frequency interference can be shared among those nations.

SEC. 1103. ASTRONAUT HEALTH CARE.

(a) SURVEY.—The Administrator shall administer an anonymous survey of astronauts and flight surgeons to evaluate communication, relationships, and the effectiveness of policies. The survey questions and the analysis of results shall be evaluated by experts independent of NASA. The survey shall be administered on at least a biennial basis.

(b) REPORT.—The Administrator shall transmit a report of the results of the survey to Congress not later than 90 days following completion of the survey.

SEC. 1104. NATIONAL ACADEMIES DECADAL SURVEYS.

(a) IN GENERAL.—The Administrator shall enter into agreements on a periodic basis with the National Academies for independent assessments, also known as decadal surveys, to take stock of the status and opportunities for Earth and space science discipline fields and Aeronautics research and to recommend priorities for research and programmatic areas over the next decade.

(b) INDEPENDENT COST ESTIMATES.—The agreements described in subsection(a) shall include independent estimates of the life cycle costs and technical readiness of missions assessed in the decadal surveys whenever possible.

(c) REEXAMINATION.—The Administrator shall request that each National Academies decadal survey committee identify any conditions or events, such as significant cost growth or scientific or technological advances, that would warrant NASA asking the National Academies to reexamine the priorities that the decadal survey had established.

SEC. 1105. INNOVATION PRIZES.

(a) IN GENERAL.—Prizes can play a useful role in encouraging innovation in the development of technologies and products that can assist NASA in its aeronautics and space activities, and the use of such prizes by NASA should be encouraged.

(b) AMENDMENTS.—Section 314 of the National Aeronautics and Space Act of 1958 is amended—

(1) by amending subsection (b) to read as follows:

''(b) TOPICS.—In selecting topics for prize competitions, the Administrator shall consult widely both within and outside the Federal Government, and may empanel advisory committees. The Administrator shall give consideration to prize goals such as the demonstration of the ability to provide energy to the lunar surface from space-based solar power systems, demonstration of innovative near-Earth object survey and deflection strategies, and innovative approaches to improving the safety and efficiency of aviation systems.''; and

(2) in subsection (i)(4) by striking ''$10,000,000'' and inserting ''$50,000,000''.

SEC. 1106. COMMERCIAL SPACE LAUNCH RANGE STUDY.

(a) STUDY BY INTERAGENCY COMMITTEE.—The Director of OSTP shall work with other appropriate Federal agencies to establish an interagency committee to conduct a study to—

(1) identify the issues and challenges associated with establishing space launch ranges and facilities that are fully dedicated to commercial space missions in close proximity to Federal launch ranges or other Federal facilities; and

(2) develop a coordinating mechanism such that States seeking to establish such commercial space launch ranges will be able to effectively and efficiently interface with the Federal Government concerning issues related to the establishment of such commercial launch ranges in close proximity to Federal launch ranges or other Federal facilities.

(b) REPORT.—The Director shall, not later than May 31, 2010, submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under subsection (a).

SEC. 1107. NASA OUTREACH PROGRAM.

(a) ESTABLISHMENT.—NASA shall competitively select an organization to partner with NASA centers, aerospace contractors, and academic institutions to carry out a program to help promote the competitiveness of small, minority-owned, and women-owned businesses in communities across the United States through enhanced insight into the technologies of NASA's space and aeronautics programs. The program shall support the mission of NASA's Innovative Partnerships Program with its emphasis on joint partnerships with industry, academia, government agencies, and national laboratories.

(b) PROGRAM STRUCTURE.—In carrying out the program described in subsection (a), the organization shall support the mission of NASA's Innovative Partnerships Program by undertaking the following activities:

(1) Facilitating the enhanced insight of the private sector into NASA's technologies in order to increase the competitiveness of the private sector in producing viable commercial products.

(2) Creating a network of academic institutions, aerospace contractors, and NASA centers that will commit to donating appropriate technical assistance to small businesses, giving preference to socially and economically disadvantaged small business concerns, small business concerns owned and controlled by service-disabled veterans, and HUBZone small business concerns. This paragraph shall not apply to any contracting actions entered into or taken by NASA.

(3) Creating a network of economic development organizations to increase the awareness and enhance the effectiveness of the program nationwide.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administrator shall submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efforts and accomplishments of the program established under subsection (a) in support of NASA's Innovative Partnerships Program. As part of the report, the Administrator shall provide—

(1) data on the number of small businesses receiving assistance, jobs created and retained, and volunteer hours donated by NASA, contractors, and academic institutions nationwide;

(2) an estimate of the total dollar value of the economic impact made by small businesses that received technical assistance through the program; and

(3) an accounting of the use of funds appropriated for the program.

SEC. 1108. REDUCTION-IN-FORCE MORATORIUM.

NASA shall not initiate or implement a reduction-in-force, or conduct any other involuntary separations of permanent, non-Senior Executive Service, civil servant employees before December 31, 2010, except for cause on charges of misconduct, delinquency, or inefficiency.

SEC. 1109. PROTECTION OF SCIENTIFIC CREDIBILITY, INTEGRITY, AND COMMUNICATION WITHIN NASA.

(a) SENSE OF THE CONGRESS.—It is the sense of Congress that NASA should not dilute, distort, suppress, or impede scientific research or the dissemination thereof.

(b) STUDY.—Within 60 days after the date of enactment of this Act, the Comptroller General shall—

(1) initiate a study to be completed within 270 days to determine whether the regulations set forth in part 1213 of title 14, Code of Federal Regulations, are being implemented in a clear and consistent manner by NASA to ensure the dissemination of research; and

(2) transmit a report to the Congress setting forth the Comptroller General's findings, conclusions, and recommendations.

(c) RESEARCH.—The Administrator shall work to ensure that NASA's policies on the sharing of climate related data respond to the recommendations of the Government Accountability Office's report on climate change research and data-sharing policies and to the recommendations on the processing, distribution, and archiving of data by the National Academies Earth Science Decadal Survey, ''Earth Science and Applications from Space'', and other relevant National Academies reports, to enhance and facilitate their availability and widest possible use to ensure public access to accurate and current data on global warming.

SEC. 1110. SENSE OF CONGRESS REGARDING THE NEED FOR A ROBUST WORKFORCE.

It is the sense of Congress that—

(1) a robust and highly skilled workforce is critical to the success of NASA's programs;

(2) voluntary attrition, the retirement of many senior workers, and difficulties in recruiting could leave NASA without access to the intellectual capital necessary to compete with its global competitors; and

(3) NASA should work cooperatively with other agencies of the United States Government responsible for programs related to space and the aerospace industry to develop and implement policies, including those with an emphasis on improving science, technology, engineering, and mathematics education at all levels, to sustain and expand the diverse workforce available to NASA.

SEC. 1111. METHANE INVENTORY.

Within 12 months after the date of enactment of this Act, the Director of OSTP, in conjunction with the Administrator, the Administrator of NOAA, and other appropriate Federal agencies and academic institutions, shall develop a plan, including a cost estimate and timetable, and initiate an inventory of natural methane stocks and fluxes in the polar region of the United States.

SEC. 1112. EXCEPTION TO ALTERNATIVE FUEL PROCUREMENT REQUIREMENT.

Section 526(a) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17142(a)) does not prohibit NASA from entering into a contract to purchase a generally available fuel that is not an alternative or synthetic fuel or predominantly produced from a nonconventional petroleum source, if—

(1) the contract does not specifically require the contractor to provide an alternative or synthetic fuel or fuel from a nonconventional petroleum source;

(2) the purpose of the contract is not to obtain an alternative or synthetic fuel or fuel from a nonconventional petroleum source; and

(3) the contract does not provide incentives for a refinery upgrade or expansion to allow a refinery to use or increase its use of fuel from a nonconventional petroleum source.

SEC. 1113. SENSE OF CONGRESS ON THE IMPORTANCE OF THE NASA OFFICE OF PROGRAM ANALYSIS AND EVALUATION.

(a) OFFICE OF PROGRAM ANALYSIS AND EVALUATION.—It is the sense of Congress that it is important for NASA to maintain an Office of Program Analysis and Evaluation that has as its mission:

(1) To develop strategic plans for NASA in accordance with section 306 of title 5, United States Code.

(2) To develop annual performance plans for NASA in accordance with section 1115 of title 31, United States Code.

(3) To provide analysis and recommendations to the Administrator on matters relating to the planning and programming phases of the Planning, Programming, Budgeting, and Execution system of NASA.

(4) To provide analysis and recommendations to the Administrator on matters relating to acquisition management and program oversight, including cost-estimating processes, contractor cost reporting processes, and contract performance assessments.

(b) OBJECTIVES.—It is further the sense of Congress that in performing those functions, the objectives of the Office should be the following:

(1) To align NASA's mission, strategic plan, budget, and performance plan with strategic goals and institutional requirements of NASA.

(2) To provide objective analysis of programs and institutions of NASA—

(A) to generate investment options for NASA; and

(B) to inform strategic decision making in NASA.

(3) To enable cost-effective, strategically aligned execution of programs and projects by NASA.

(4) To perform independent cost estimation in support of NASA decision making and establishment of standards for agency cost analysis.

(5) To ensure that budget formulation and execution are consistent with strategic investment decisions of NASA.

(6) To provide independent program and project reviews that address the credibility of technical, cost, schedule, risk, and management approaches with respect to available resources.

(7) To facilitate progress by NASA toward meeting the commitments of NASA.

SEC. 1114. SENSE OF CONGRESS ON ELEVATING THE IMPORTANCE OF SPACE AND AERONAUTICS WITHIN THE EXECUTIVE OFFICE OF THE PRESIDENT.

It is the sense of Congress that the President should elevate the importance of space and aeronautics within the Executive Office of the President by organizing the interagency focus on space and aeronautics matters in as effective a manner as possible, such as by means of the National Space Council authorized by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471) or other appropriate mechanisms.

SEC. 1115. STUDY ON LEASING PRACTICES OF FIELD CENTERS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall complete a study on the

leasing practices of all field centers of NASA, including the Michoud Assembly Facility. Such study shall include the following:

(1) The method by which overhead maintenance expenses are distributed among tenants of such field centers.

(2) Identification of the impacts of such method on attracting businesses and partnerships to such field centers.

(3) Identification of the steps that can be taken to mitigate any adverse impacts identified under paragraph (2).

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the study required by subsection (a), including the following:

(1) The findings of the Administrator with respect to such study.

(2) A description of the impacts identified under subsection (a)(2).

(3) The steps identified under subsection (a)(3).

SEC. 1116. COOPERATIVE UNMANNED AERIAL VEHICLE ACTIVITIES.

The Administrator, in cooperation with the Administrator of NOAA and in coordination with other agencies that have existing civil capabilities, shall continue to utilize the capabilities of unmanned aerial vehicles as appropriate in support of NASA and interagency cooperative missions. The Administrator may enter into cooperative agreements with universities with unmanned aerial vehicle programs and related assets to conduct collaborative research and development activities, including development of appropriate applications of small unmanned aerial vehicle technologies and systems in remote areas.

SEC. 1117. DEVELOPMENT OF ENHANCED-USE LEASE POLICY.

(a) IN GENERAL.—The Administrator shall develop an agency-wide enhanced-use lease policy that—

(1) is based upon sound business practices and lessons learned from the demonstration centers; and

(2) establishes controls and procedures to ensure accountability and protect the interests of the Government.

(b) CONTENTS.—The policy required by subsection (a) shall include the following:

(1) Criteria for determining whether enhanced-use lease provides better economic value to the Government than other options, such as—

(A) Federal financing through appropriations; or

(B) sale of the property.

(2) Requirement for the identification of proposed physical and procedural changes needed to ensure security and restrict access to specified areas, coordination of proposed changes with existing site tenants, and development of estimated costs of such changes.

(3) Measures of effectiveness for the enhanced-use lease program.

(4) Accounting controls and procedures to ensure accountability, such as an audit trail and documentation to readily support financial transactions.

(c) ANNUAL REPORT.—Section 315(f) of the National Aeronautics and Space Administration Act of 1958 (42 U.S.C. 2459j(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—The Administrator shall submit an annual report by January 31st of each year. Such report shall include the following:

''(1) Information that identifies and quantifies the value of the arrangements and expenditures of revenues received under this section.

''(2) The availability and use of funds received under this section for the Agency's operating plan.''.

(d) DISTRIBUTION OF CASH CONSIDERATION RECEIVED.—

(1) IN GENERAL.—Section 315(b)(3)(B) of such Act (42 U.S.C. 2459j(b)(3)(B)) is amended to read as follows:

''(B) Of any amounts of cash consideration received under this subsection that are not utilized in accordance with subparagraph (A)—

''(i) 35 percent shall be deposited in a capital asset account to be established by the Administrator, shall be available for maintenance, capital revitalization, and improvements of the real property assets and related personal property under the jurisdiction of the Administrator, and shall remain available until expended; and

''(ii) the remaining 65 percent shall be available to the respective center or facility of the Administration engaged in the lease of nonexcess real property, and shall remain available until expended for maintenance, capital revitalization, and improvements of the real property assets and related personal property at the respective center or facility subject to the concurrence of the Administrator.''.

(2) CONFORMING AMENDMENTS.—Section 533 of the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1931) is amended—

(A) by amending subsection (b)(4) to read as follows:

''(4) in paragraph (2), as redesignated by paragraph (3) of this subsection, by adding at the end the following new subparagraph:

'' '(C) Amounts utilized under subparagraph (B) may not be utilized for daily operating costs.'.''; and

(B) in subsection (d)—

(i) by striking ''the following new subsection (f)'' and inserting ''the following new subsection''; and

(ii) in the quoted matter, by redesignating subsection (f) as subsection (g).

SEC. 1118. SENSE OF CONGRESS WITH RESPECT TO THE MICHOUD ASSEMBLY FACILITY AND NASA'S OTHER CENTERS AND FACILITIES.

It is the sense of Congress that the Michoud Assembly Facility represents a unique resource in the facilitation of the Nation's exploration programs and that every effort should be made to ensure the effective utilization of that resource, as well as NASA's other centers and facilities.

SEC. 1119. REPORT ON U.S. INDUSTRIAL BASE FOR LAUNCH VEHICLE ENGINES.

Not later than 180 days after the date of Enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report setting forth the assessment of the Director as to the capacity of the United States industrial base for development and production of engines to meet United States Government and commercial requirements for space launch vehicles. The Report required by this section shall include information regarding existing, pending, and planned engine developments across a broad spectrum of thrust capabilities, including propulsion for sub-orbital, small, medium, and heavy-lift space launch vehicles.

SEC. 1120. SENSE OF CONGRESS ON PRECURSOR INTERNATIONAL SPACE STATION RESEARCH.

It is the Sense of Congress that NASA is taking positive steps to utilize the Space Shuttle as a platform for precursor International Space Station research by maximizing to the extent practicable the use of middeck accommodations, including soft stowage, for near-term scientific and commercial applications on remaining Space Shuttle flights, and the Administrator is strongly encouraged to continue to promote the effective utilization of the Space Shuttle for precursor research within the constraints of the International Space Station assembly requirements.

SEC. 1121. LIMITATION ON FUNDING FOR CONFERENCES.

(a) IN GENERAL.—There are authorized to be appropriated not more than $5,000,000 for any expenses related to conferences, including conference programs, travel costs, and related expenses. No funds authorized under this Act may be used to support a Space Flight Awareness Launch Honoree Event conference. The total amount of the funds available under this Act for other Space Flight Awareness Honoree-related activities in fiscal year 2009 may not exceed ½ of the total amount of funds from all sources obligated or expended on such activities in fiscal year 2008.

(b) QUARTERLY REPORTS.—The Administrator shall submit quarterly reports to the Inspector General of NASA regarding the costs and contracting procedures relating to each conference held by NASA during fiscal year 2009 for which the cost to the Government is more than $20,000. Each report shall include, for each conference described in that subsection held during the applicable quarter—

(1) a description of the subject of and number of participants attending, the conference, including the number of NASA employees attending and the number of contractors attending at agency expense;

(2) a detailed statement of the costs to the Government relating to the conference, including—

(A) the cost of any food or beverages;

(B) the cost of any audio-visual services; and

(C) a discussion of the methodology used to determine which costs relate to the conference; and

D) cost of any room, board, travel, and per diem expenses; and

(3) a description of the contracting procedures relating to the conference, including—

(A) whether contracts were awarded on a competitive basis for that conference; and

(B) a discussion of any cost comparison conducted by NASA in evaluating potential contractors for that conference.

SEC. 1122. REPORT ON NASA EFFICIENCY AND PERFORMANCE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that contains a review of NASA programs and associated activities with an annual funding level of more than $50,000,000 that appear to be similar in scope and purpose to other activities within the Federal government, that includes—

(1) a brief description of each NASA program reviewed and its subordinate activities;

(2) the annual and cumulative appropriation amounts expended for each program reviewed and its subordinate activities since fiscal year 2005;

(3) a brief description of each Federal program and its subordinate activities that appears to have a similar scope and purpose to a NASA program; and

(4) a review of the formal and informal processes by which NASA coordinates with other Federal agencies to ensure that its programs and activities are not duplicative of similar efforts within the Federal government and that the programs and activities meet the core mission of NASA, and the degree of transparency and accountability afforded by those processes.

(b) DUPLICATIVE PROGRAMS.—If the Comptroller General determines, under subsection (a)(4), that any deficiency exists in the NASA procedures intended to avoid or eliminate conflict or duplication with other Federal agency activities, the Comptroller General shall include a recommendation as to how such procedures should be modified to ensure similar programs and associated activities can be consolidated, eliminated, or streamlined within NASA or within other Federal agencies to improve efficiency.

SA 5649. Mr. NELSON of Florida (for Mr. LEVIN (for himself and Mr. VOINOVICH)) proposed an amendment to the bill H.R. 6460, to amend the Federal Water Pollution Control Act to provide for the remediation of sediment contamination in areas of concern, and for other purposes; as follows:

Strike section 3(f) and all that follows and insert the following:

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 118(c)(12)(H) of such Act (33 U.S.C. 1268(c)(12)(H)) is amended—

(1) by striking clause (i) and inserting the following:

''(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph $50,000,000 for each of fiscal years 2004 through 2010.''; and

(2) by adding at the end the following:

''(iii) ALLOCATION OF FUNDS.—Not more than 20 percent of the funds appropriated pursuant to clause (i) for a fiscal year may be used to carry out subparagraph (F).''.

(g) PUBLIC INFORMATION PROGRAM.—Section 118(c)(13)(B) of such Act (33 U.S.C. 1268(c)(13)(B)) is amended by striking ''2008'' and inserting ''2010''.

SEC. 4. RESEARCH AND DEVELOPMENT PROGRAM.

Section 106(b) of the Great Lakes Legacy Act of 2002 (33 U.S.C. 1271a(b)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—In addition to any amounts authorized under other provisions of law, there is authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2004 through 2010.''.

SA 5650. Mr. DURBIN (for Mr. BIDEN (for himself, Mr. SCHUMER, Mr. HATCH, Mr. BROWN, Mr. ALEXANDER, Mr. CARPER, Mr. ALLARD, Mr. CASEY, Mr. BARRASSO, Mr. DODD, Mr. BROWNBACK, Mrs. MURRAY, Mr. CHAMBLISS, Mr. NELSON of Nebraska, Mr. CRAPO, Mr. NELSON of Florida, Mr. CORNYN, Mr. OBAMA, Mr. COBURN, Mr. PRYOR, Mr. ENZI, Mr. TESTER, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. KYL, Mr. MARTINEZ, Mr. MCCAIN, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Mr. SUNUNU, Mr. THUNE, Mr. VITTER, Mr. MCCONNELL, Mr. VOINOVICH, Mr. BENNETT, Mr. SPECTER, and Mr. REID)) proposed an amendment to the bill S. 1738, to require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Providing Resources, Officers, and Technology To Eradicate Cyber Threats to Our Children Act of 2008'' or the ''PROTECT Our Children Act of 2008''.

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

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) CHILD EXPLOITATION.—The term ''child exploitation'' means any conduct, attempted conduct, or conspiracy to engage in conduct involving a minor that violates section 1591, chapter 109A, chapter 110, and chapter 117 of title 18, United States Code, or any sexual activity involving a minor for which any person can be charged with a criminal offense.

(2) CHILD OBSCENITY.—The term ''child obscenity'' means any visual depiction proscribed by section 1466A of title 18, United States Code.

(3) MINOR.—The term ''minor'' means any person under the age of 18 years.

(4) SEXUALLY EXPLICIT CONDUCT.—The term ''sexually explicit conduct'' has the meaning given such term in section 2256 of title 18, United States Code.

TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

SEC. 101. ESTABLISHMENT OF NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION.

(a) IN GENERAL.—The Attorney General of the United States shall create and implement a National Strategy for Child Exploitation Prevention and Interdiction.

(b) TIMING.—Not later than 1 year after the date of enactment of this Act and on February 1 of every second year thereafter, the Attorney General shall submit to Congress the National Strategy established under subsection (a).

(c) REQUIRED CONTENTS OF NATIONAL STRATEGY.—The National Strategy established under subsection (a) shall include the following:

(1) Comprehensive long-range, goals for reducing child exploitation.

(2) Annual measurable objectives and specific targets to accomplish long-term, quantifiable goals that the Attorney General determines may be achieved during each year beginning on the date when the National Strategy is submitted.

(3) Annual budget priorities and Federal efforts dedicated to combating child exploitation, including resources dedicated to Internet Crimes Against Children task forces, Project Safe Childhood, FBI Innocent Images Initiative, the National Center for Missing and Exploited Children, regional forensic computer labs, Internet Safety programs, and all other entities whose goal or mission is to combat the exploitation of children that receive Federal support.

(4) A 5-year projection for program and budget goals and priorities.

(5) A review of the policies and work of the Department of Justice related to the prevention and investigation of child exploitation crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Federal Bureau of Investigation, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to child exploitation.

(6) A description of the Department's efforts to coordinate with international, State, local, tribal law enforcement, and private sector entities on child exploitation prevention and interdiction efforts.

(7) Plans for interagency coordination regarding the prevention, investigation, and apprehension of individuals exploiting children, including cooperation and collaboration with—

(A) Immigration and Customs Enforcement;

(B) the United States Postal Inspection Service;

(C) the Department of State;

(D) the Department of Commerce;

(E) the Department of Education;

(F) the Department of Health and Human Services; and

(G) other appropriate Federal agencies.

(8) A review of the Internet Crimes Against Children Task Force Program, including—

(A) the number of ICAC task forces and location of each ICAC task force;

(B) the number of trained personnel at each ICAC task force;

(C) the amount of Federal grants awarded to each ICAC task force;

(D) an assessment of the Federal, State, and local cooperation in each task force, including—

(i) the number of arrests made by each task force;

(ii) the number of criminal referrals to United States attorneys for prosecution;

(iii) the number of prosecutions and convictions from the referrals made under clause (ii);

(iv) the number, if available, of local prosecutions and convictions based on ICAC task force investigations; and

(v) any other information demonstrating the level of Federal, State, and local coordination and cooperation, as such information is to be determined by the Attorney General;

(E) an assessment of the training opportunities and technical assistance available to support ICAC task force grantees; and

(F) an assessment of the success of the Internet Crimes Against Children Task Force Program at leveraging State and local resources and matching funds.

(9) An assessment of the technical assistance and support available for Federal, State, local, and tribal law enforcement agencies, in the prevention, investigation, and prosecution of child exploitation crimes.

(10) A review of the backlog of forensic analysis for child exploitation cases at each FBI Regional Forensic lab and an estimate of the backlog at State and local labs.

(11) Plans for reducing the forensic backlog described in paragraph (10), if any, at Federal, State and local forensic labs.

(12) A review of the Federal programs related to child exploitation prevention and education, including those related to Internet safety, including efforts by the private sector and nonprofit entities, or any other initiatives, that have proven successful in promoting child safety and Internet safety.

(13) An assessment of the future trends, challenges, and opportunities, including new technologies, that will impact Federal, State, local, and tribal efforts to combat child exploitation.

(14) Plans for liaisons with the judicial branches of the Federal and State governments on matters relating to child exploitation.

(15) An assessment of Federal investigative and prosecution activity relating to reported incidents of child exploitation crimes, which shall include a number of factors, including—

(A) the number of high-priority suspects (identified because of the volume of suspected criminal activity or because of the danger to the community or a potential victim) who were investigated and prosecuted;

(B) the number of investigations, arrests, prosecutions and convictions for a crime of child exploitation; and

(C) the average sentence imposed and statutory maximum for each crime of child exploitation.

(16) A review of all available statistical data indicating the overall magnitude of child pornography trafficking in the United States and internationally, including—

(A) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, peer-to-peer file sharing of child pornography;

(B) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other reporting sources of engaging in, buying and selling, or other commercial activity related to child pornography;

(C) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, all other forms of activity related to child pornography;

(D) the number of tips or other statistical data from the National Center for Missing and Exploited Children's CybertTipline and other data indicating the magnitude of child pornography trafficking; and

(E) any other statistical data indicating the type, nature, and extent of child exploitation crime in the United States and abroad.

(17) Copies of recent relevant research and studies related to child exploitation, including—

(A) studies related to the link between possession or trafficking of child pornography and actual abuse of a child;

(B) studies related to establishing a link between the types of files being viewed or shared and the type of illegal activity; and

(C) any other research, studies, and available information related to child exploitation.

(18) A review of the extent of cooperation, coordination, and mutual support between private sector and other entities and organizations and Federal agencies, including the involvement of States, local and tribal government agencies to the extent Federal programs are involved.

(19) The results of the Project Safe Childhood Conference or other conferences or meetings convened by the Department of Justice related to combating child exploitation

(d) APPOINTMENT OF HIGH-LEVEL OFFICIAL.—

(1) IN GENERAL.—The Attorney General shall designate a senior official at the Department of Justice to be responsible for coordinating the development of the National Strategy established under subsection (a).

(2) DUTIES.—The duties of the official designated under paragraph (1) shall include—

(A) acting as a liaison with all Federal agencies regarding the development of the National Strategy;

(B) working to ensure that there is proper coordination among agencies in developing the National Strategy;

(C) being knowledgeable about budget priorities and familiar with all efforts within the Department of Justice and the FBI related to child exploitation prevention and interdiction; and

(D) communicating the National Strategy to Congress and being available to answer questions related to the strategy at congressional hearings, if requested by committees of appropriate jurisdictions, on the contents of the National Strategy and progress of the Department of Justice in implementing the National Strategy.

SEC. 102. ESTABLISHMENT OF NATIONAL ICAC TASK FORCE PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice, under the general authority of the Attorney General, a National Internet Crimes Against Children Task Force Program (hereinafter in this title referred to as the ''ICAC Task Force Program''), which shall consist of a national program of State and local law enforcement task forces dedicated to developing effective responses to online enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases.

(2) INTENT OF CONGRESS.—It is the purpose and intent of Congress that the ICAC Task Force Program established under paragraph (1) is intended to continue the ICAC Task Force Program authorized under title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, and funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) NATIONAL PROGRAM.—

(1) STATE REPRESENTATION.—The ICAC Task Force Program established under subsection (a) shall include at least 1 ICAC task force in each State.

(2) CAPACITY AND CONTINUITY OF INVESTIGATIONS.—In order to maintain established capacity and continuity of investigations and prosecutions of child exploitation cases, the Attorney General, shall, in establishing the ICAC Task Force Program under subsection (a) consult with and consider all 59 task forces in existence on the date of enactment of this Act. The Attorney General shall include all existing ICAC task forces in the ICAC Task Force Program, unless the Attorney General makes a determination that an existing ICAC does not have a proven track record of success.

(3) ONGOING REVIEW.—The Attorney General shall—

(A) conduct periodic reviews of the effectiveness of each ICAC task force established under this section; and

(B) have the discretion to establish a new task force if the Attorney General determines that such decision will enhance the effectiveness of combating child exploitation provided that the Attorney General notifies Congress in advance of any such decision and that each state maintains at least 1 ICAC task force at all times.

(4) TRAINING.—

(A) IN GENERAL.—The Attorney General may establish national training programs to support the mission of the ICAC task forces, including the effective use of the National Internet Crimes Against Children Data System.

(B) LIMITATION.—In establishing training courses under this paragraph, the Attorney General may not award any one entity other than a law enforcement agency more than $2,000,000 annually to establish and conduct training courses for ICAC task force members and other law enforcement officials.

(C) REVIEW.—The Attorney General shall—

(i) conduct periodic reviews of the effectiveness of each training session authorized by this paragraph; and

(ii) consider outside reports related to the effective use of Federal funding in making future grant awards for training.

SEC. 103. PURPOSE OF ICAC TASK FORCES.

The ICAC Task Force Program, and each State or local ICAC task force that is part of the national program of task forces, shall be dedicated toward—

(1) increasing the investigative capabilities of State and local law enforcement officers in the detection, investigation, and apprehension of Internet crimes against children offenses or offenders, including technology-facilitated child exploitation offenses;

(2) conducting proactive and reactive Internet crimes against children investigations;

(3) providing training and technical assistance to ICAC task forces and other Federal, State, and local law enforcement agencies in the areas of investigations, forensics, prosecution, community outreach, and capacity-building, using recognized experts to assist in the development and delivery of training programs;

(4) increasing the number of Internet crimes against children offenses being investigated and prosecuted in both Federal and State courts;

(5) creating a multiagency task force response to Internet crimes against children offenses within each State;

(6) participating in the Department of Justice's Project Safe Childhood initiative, the purpose of which is to combat technology-facilitated sexual exploitation crimes against children;

(7) enhancing nationwide responses to Internet crimes against children offenses, including assisting other ICAC task forces, as well as other Federal, State, and local agencies with Internet crimes against children investigations and prosecutions;

(8) developing and delivering Internet crimes against children public awareness and prevention programs; and

(9) participating in such other activities, both proactive and reactive, that will enhance investigations and prosecutions of Internet crimes against children.

SEC. 104. DUTIES AND FUNCTIONS OF TASK FORCES.

Each State or local ICAC task force that is part of the national program of task forces shall—

(1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of such task force;

(2) work consistently toward achieving the purposes described in section 103;

(3) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children;

(4) provide forensic, preventive, and investigative assistance to parents, educators, prosecutors, law enforcement, and others concerned with Internet crimes against children;

(5) develop multijurisdictional, multiagency responses and partnerships to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses;

(6) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resources of such task force;

(7) establish or adopt investigative and prosecution standards, consistent with established norms, to which such task force shall comply;

(8) investigate, and seek prosecution on, tips related to Internet crimes against children, including tips from Operation Fairplay, the National Internet Crimes Against Children Data System established in section 105, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigative leads that indicate the possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community;

(9) develop procedures for handling seized evidence;

(10) maintain—

(A) such reports and records as are required under this title; and

(B) such other reports and records as determined by the Attorney General; and

(11) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

SEC. 105. NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish, consistent with all existing Federal laws relating to the protection of privacy, a National Internet Crimes Against Children Data System. The system shall not be used to search for or obtain any information that does not involve the use of the Internet to facilitate child exploitation.

(b) INTENT OF CONGRESS.—It is the purpose and intent of Congress that the National Internet Crimes Against Children Data System established in subsection (a) is intended to continue and build upon Operation Fairplay developed by the Wyoming Attorney General's office, which has established a secure, dynamic undercover infrastructure that has facilitated online law enforcement investigations of child exploitation, information sharing, and the capacity to collect and aggregate data on the extent of the problems of child exploitation.

(c) PURPOSE OF SYSTEM.—The National Internet Crimes Against Children Data System established under subsection (a) shall be dedicated to assisting and supporting credentialed law enforcement agencies authorized to investigate child exploitation in accordance with Federal, State, local, and tribal laws, including by providing assistance and support to—

(1) Federal agencies investigating and prosecuting child exploitation;

(2) the ICAC Task Force Program established under section 102;

(3) State, local, and tribal agencies investigating and prosecuting child exploitation; and

(4) foreign or international law enforcement agencies, subject to approval by the Attorney General.

(d) CYBER SAFE DECONFLICTION AND INFORMATION SHARING.—The National Internet Crimes Against Children Data System established under subsection (a)—

(1) shall be housed and maintained within the Department of Justice or a credentialed law enforcement agency;

(2) shall be made available for a nominal charge to support credentialed law enforcement agencies in accordance with subsection (c); and

(3) shall—

(A) allow Federal, State, local, and tribal agencies and ICAC task forces investigating and prosecuting child exploitation to contribute and access data for use in resolving case conflicts;

(B) provide, directly or in partnership with a credentialed law enforcement agency, a dynamic undercover infrastructure to facilitate online law enforcement investigations of child exploitation;

(C) facilitate the development of essential software and network capability for law enforcement participants; and

(D) provide software or direct hosting and support for online investigations of child exploitation activities, or, in the alternative, provide users with a secure connection to an alternative system that provides such capabilities, provided that the system is hosted within a governmental agency or a credentialed law enforcement agency.

(e) COLLECTION AND REPORTING OF DATA.—

(1) IN GENERAL.—The National Internet Crimes Against Children Data System established under subsection (a) shall ensure the following:

(A) REAL-TIME REPORTING.—All child exploitation cases involving local child victims that are reasonably detectable using available software and data are, immediately upon their detection, made available to participating law enforcement agencies.

(B) HIGH-PRIORITY SUSPECTS.—Every 30 days, at minimum, the National Internet Crimes Against Children Data System shall—

(i) identify high-priority suspects, as such suspects are determined by the volume of suspected criminal activity or other indicators of seriousness of offense or dangerousness to the community or a potential local victim; and

(ii) report all such identified high-priority suspects to participating law enforcement agencies.

(C) ANNUAL REPORTS.—Any statistical data indicating the overall magnitude of child pornography trafficking and child exploitation in the United States and internationally is made available and included in the National Strategy, as is required under section 101(c)(16).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of participating law enforcement agencies to disseminate investigative leads or statistical information in accordance with State and local laws.

(f) MANDATORY REQUIREMENTS OF NETWORK.—The National Internet Crimes Against Children Data System established under subsection (a) shall develop, deploy, and maintain an integrated technology and training program that provides—

(1) a secure, online system for Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies for use in resolving case conflicts, as provided in subsection (d);

(2) a secure system enabling online communication and collaboration by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies regarding ongoing investigations, investigatory techniques, best practices, and any other relevant news and professional information;

(3) a secure online data storage and analysis system for use by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies;

(4) secure connections or interaction with State and local law enforcement computer networks, consistent with reasonable and established security protocols and guidelines;

(5) guidelines for use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces; and

(6) training and technical assistance on the use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces.

(g) NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM STEERING COMMITTEE.—The Attorney General shall establish a National Internet Crimes Against Children Data System Steering Committee to provide guidance to the Network relating to the program under subsection (f), and to assist in the development of strategic plans for the System. The Steering Committee shall consist of 10 members with expertise in child exploitation prevention and interdiction prosecution, investigation, or prevention, including—

(1) 3 representatives elected by the local directors of the ICAC task forces, such representatives shall represent different geographic regions of the country;

(2) 1 representative of the Department of Justice Office of Information Services;

(3) 1 representative from Operation Fairplay, currently hosted at the Wyoming Office of the Attorney General;

(4) 1 representative from the law enforcement agency having primary responsibility for hosting and maintaining the National Internet Crimes Against Children Data System;

(5) 1 representative of the Federal Bureau of Investigation's Innocent Images National Initiative or Regional Computer Forensic Lab program;

(6) 1 representative of the Immigration and Customs Enforcement's Cyber Crimes Center;

(7) 1 representative of the United States Postal Inspection Service; and

(8) 1 representative of the Department of Justice.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2009 through 2016, $2,000,000 to carry out the provisions of this section.

SEC. 106. ICAC GRANT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Attorney General is authorized to award grants to State and local ICAC task forces to assist in carrying out the duties and functions described under section 104.

(2) FORMULA GRANTS.—

(A) DEVELOPMENT OF FORMULA.—At least 75 percent of the total funds appropriated to carry out this section shall be available to award or otherwise distribute grants pursuant to a funding formula established by the Attorney General in accordance with the requirements in subparagraph (B).

(B) FORMULA REQUIREMENTS.—Any formula established by the Attorney General under subparagraph (A) shall—

(i) ensure that each State or local ICAC task force shall, at a minimum, receive an amount equal to 0.5 percent of the funds available to award or otherwise distribute grants under subparagraph (A); and

(ii) take into consideration the following factors:

(I) The population of each State, as determined by the most recent decennial census performed by the Bureau of the Census.

(II) The number of investigative leads within the applicant's jurisdiction generated by Operation Fairplay, the ICAC Data Network, the CyberTipline, and other sources.

(III) The number of criminal cases related to Internet crimes against children referred to a task force for Federal, State, or local prosecution.

(IV) The number of successful prosecutions of child exploitation cases by a task force.

(V) The amount of training, technical assistance, and public education or outreach by a task force related to the prevention, investigation, or prosecution of child exploitation offenses.

(VI) Such other criteria as the Attorney General determines demonstrate the level of need for additional resources by a task force.

(3) DISTRIBUTION OF REMAINING FUNDS BASED ON NEED.—

(A) IN GENERAL.—Any funds remaining from the total funds appropriated to carry out this section after funds have been made available to award or otherwise distribute formula grants under paragraph (2)(A) shall be distributed to State and local ICAC task forces based upon need, as set forth by criteria established by the Attorney General. Such criteria shall include the factors under paragraph (2)(B)(ii).

(B) MATCHING REQUIREMENT.—A State or local ICAC task force shall contribute matching non-Federal funds in an amount equal to not less than 25 percent of the amount of funds received by the State or local ICAC task force under subparagraph (A). A State or local ICAC task force that is not able or willing to contribute matching funds in accordance with this subparagraph shall not be eligible for funds under subparagraph (A).

(C) WAIVER.—The Attorney General may waive, in whole or in part, the matching requirement under subparagraph (B) if the State or local ICAC task force demonstrates good cause or financial hardship.

(b) APPLICATION.—

(1) IN GENERAL.—Each State or local ICAC task force seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this title.

(c) ALLOWABLE USES.—Grants awarded under this section may be used to—

(1) hire personnel, investigators, prosecutors, education specialists, and forensic specialists;

(2) establish and support forensic laboratories utilized in Internet crimes against children investigations;

(3) support investigations and prosecutions of Internet crimes against children;

(4) conduct and assist with education programs to help children and parents protect themselves from Internet predators;

(5) conduct and attend training sessions related to successful investigations and prosecutions of Internet crimes against children; and

(6) fund any other activities directly related to preventing, investigating, or prosecuting Internet crimes against children.

(d) REPORTING REQUIREMENTS.—

(1) ICAC REPORTS.—To measure the results of the activities funded by grants under this section, and to assist the Attorney General in complying with the Government Performance and Results Act (Public Law 103–62; 107 Stat. 285), each State or local ICAC task force receiving a grant under this section shall, on an annual basis, submit a report to the Attorney General that sets forth the following:

(A) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

(B) Investigation and prosecution performance measures of the task force, including—

(i) the number of investigations initiated related to Internet crimes against children;

(ii) the number of arrests related to Internet crimes against children; and

(iii) the number of prosecutions for Internet crimes against children, including—

(I) whether the prosecution resulted in a conviction for such crime; and

(II) the sentence and the statutory maximum for such crime under State law.

(C) The number of referrals made by the task force to the United States Attorneys office, including whether the referral was accepted by the United States Attorney.

(D) Statistics that account for the disposition of investigations that do not result in arrests or prosecutions, such as referrals to other law enforcement.

(E) The number of investigative technical assistance sessions that the task force provided to nonmember law enforcement agencies.

(F) The number of computer forensic examinations that the task force completed.

(G) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to Congress on—

(A) the progress of the development of the ICAC Task Force Program established under section 102; and

(B) the number of Federal and State investigations, prosecutions, and convictions in the prior 12-month period related to child exploitation.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $60,000,000 for fiscal year 2009;

(2) $60,000,000 for fiscal year 2010;

(3) $60,000,000 for fiscal year 2011;

(4) $60,000,000 for fiscal year 2012; and

(5) $60,000,000 for fiscal year 2013.

(b) AVAILABILITY.—Funds appropriated under subsection (a) shall remain available until expended.

TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

SEC. 201. ADDITIONAL REGIONAL COMPUTER FORENSIC LABS.

(a) ADDITIONAL RESOURCES.—The Attorney General shall establish additional computer forensic capacity to address the current backlog for computer forensics, including for child exploitation investigations. The Attorney General may utilize funds under this title to increase capacity at existing regional forensic laboratories or to add laboratories under the Regional Computer Forensic Laboratories Program operated by the Federal Bureau of Investigation.

(b) PURPOSE OF NEW RESOURCES.—The additional forensic capacity established by resources provided under this section shall be dedicated to assist Federal agencies, State and local Internet Crimes Against Children task forces, and other Federal, State, and local law enforcement agencies in preventing, investigating, and prosecuting Internet crimes against children.

(c) NEW COMPUTER FORENSIC LABS.—If the Attorney General determines that new regional computer forensic laboratories are required under subsection (a) to best address existing backlogs, such new laboratories shall be established pursuant to subsection (d).

(d) LOCATION OF NEW LABS.—The location of any new regional computer forensic laboratories under this section shall be determined by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, the Regional Computer Forensic Laboratory National Steering Committee, and other relevant stakeholders.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and every year thereafter, the Attorney General shall submit a report to the Congress on how the funds appropriated under this section were utilized.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2009 through 2013, $2,000,000 to carry out the provisions of this section.

TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

SEC. 301. PROHIBIT THE BROADCAST OF LIVE IMAGES OF CHILD ABUSE.

Section 2251 of title 18, United States Code is amended—

(1) in subsection (a), by—

(A) inserting ''or for the purpose of transmitting a live visual depiction of such conduct'' after ''for the purpose of producing any visual depiction of such conduct'';

(B) inserting ''or transmitted'' after ''if such person knows or has reason to know that such visual depiction will be transported'';

(C) inserting ''or transmitted'' after ''if that visual depiction was produced''; and

(D) inserting ''or transmitted'' after ''has actually been transported''; and

(2) in subsection (b), by—

(A) inserting ''or for the purpose of transmitting a live visual depiction of such conduct'' after ''for the purpose of producing any visual depiction of such conduct'';

(B) inserting ''or transmitted'' after ''person knows or has reason to know that such visual depiction will be transported'';

(C) inserting ''or transmitted'' after ''if that visual depiction was produced''; and

(D) inserting ''or transmitted'' after ''has actually been transported''.

SEC. 302. AMENDMENT TO SECTION 2256 OF TITLE 18, UNITED STATES CODE.

Section 2256(5) of title 18, United States Code is amended by—

(1) striking ''and'' before ''data'';

(2) after ''visual image'' by inserting '', and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format''.

SEC. 303. AMENDMENT TO SECTION 2260 OF TITLE 18, UNITED STATES CODE.

Section 2260(a) of title 18, United States Code, is amended by—

(1) inserting ''or for the purpose of transmitting a live visual depiction of such conduct'' after ''for the purpose of producing any visual depiction of such conduct''; and

(2) inserting ''or transmitted'' after ''imported''.

SEC. 304. PROHIBITING THE ADAPTATION OR MODIFICATION OF AN IMAGE OF AN IDENTIFIABLE MINOR TO PRODUCE CHILD PORNOGRAPHY.

(a) OFFENSE.—Subsection (a) of section 2252A of title 18, United States Code, is amended—

(1) in paragraph (5), by striking ''; or'' at the end and inserting a semicolon;

(2) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (6) the following:

''(7) knowingly produces with intent to distribute, or distributes, by any means, including a computer, in or affecting interstate or foreign commerce, child pornography that is an adapted or modified depiction of an identifiable minor.''.

(b) PUNISHMENT.—Subsection (b) of section 2252A of title 18, United States Code, is amended by adding at the end the following:

''(3) Whoever violates, or attempts or conspires to violate, subsection (a)(7) shall be fined under this title or imprisoned not more than 15 years, or both.''.

TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK FACTORS

SEC. 401. NIJ STUDY OF RISK FACTORS FOR ASSESSING DANGEROUSNESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall prepare a report to identify investigative factors that reliably indicate whether a subject of an online child exploitation investigation poses a high risk of harm to children. Such a report shall be prepared in consultation and coordination with Federal law enforcement agencies, the National Center for Missing and Exploited Children, Operation Fairplay at the Wyoming Attorney General's Office, the Internet Crimes Against Children Task Force, and other State and local law enforcement.

(b) CONTENTS OF ANALYSIS.—The report required by subsection (a) shall include a thorough analysis of potential investigative factors in on-line child exploitation cases and an appropriate examination of investigative data from prior prosecutions and case files of identified child victims.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall submit a report to the House and Senate Judiciary Committees that includes the findings of the study required by this section and makes recommendations on technological tools and law enforcement procedures to help investigators prioritize scarce resources to those cases where there is actual hands-on abuse by the suspect.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to the National Institute of Justice to conduct the study required under this section.

TITLE V—SECURING ADOLESCENTS FROM ONLINE EXPLOITATION

SEC. 501. REPORTING REQUIREMENTS OF ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2258 the following:

''SEC. 2258A. REPORTING REQUIREMENTS OF ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.

''(a) DUTY TO REPORT.—

''(1) IN GENERAL.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public through a facility or means of interstate or foreign commerce, obtains actual knowledge of any facts or circumstances described in paragraph (2) shall, as soon as reasonably possible—

''(A) provide to the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline operated by such center, the mailing address, telephone number, facsimile number, electronic mail address of, and individual point of contact for, such electronic communication service provider or remote computing service provider; and

''(B) make a report of such facts or circumstances to the CyberTipline, or any successor to the CyberTipline operated by such center.

''(2) FACTS OR CIRCUMSTANCES.—The facts or circumstances described in this paragraph are any facts or circumstances from which there is an apparent violation of—

''(A) section 2251, 2251A, 2252, 2252A, 2252B, or 2260 that involves child pornography; or

''(B) section 1466A.

''(b) CONTENTS OF REPORT.—To the extent the information is within the custody or control of an electronic communication service provider or a remote computing service provider, the facts and circumstances included in each report under subsection (a)(1) may include the following information:

''(1) INFORMATION ABOUT THE INVOLVED INDIVIDUAL.—Information relating to the identity of any individual who appears to have violated a Federal law described in subsection (a)(2), which may, to the extent reasonably practicable, include the electronic mail address, Internet Protocol address, uniform resource locator, or any other identifying information, including self-reported identifying information.

''(2) HISTORICAL REFERENCE.—Information relating to when and how a customer or subscriber of an electronic communication service or a remote computing service uploaded, transmitted, or received apparent child pornography or when and how apparent child pornography was reported to, or discovered by the electronic communication service provider or remote computing service provider, including a date and time stamp and time zone.

''(3) GEOGRAPHIC LOCATION INFORMATION.—

''(A) IN GENERAL.—Information relating to the geographic location of the involved individual or website, which may include the Internet Protocol address or verified billing address, or, if not reasonably available, at least 1 form of geographic identifying information, including area code or zip code.

''(B) INCLUSION.—The information described in subparagraph (A) may also include any geographic information provided to the electronic communication service or remote computing service by the customer or subscriber.

''(4) IMAGES OF APPARENT CHILD PORNOGRAPHY.—Any image of apparent child pornography relating to the incident such report is regarding.

''(5) COMPLETE COMMUNICATION.—The complete communication containing any image of apparent child pornography, including—

''(A) any data or information regarding the transmission of the communication; and

''(B) any images, data, or other digital files contained in, or attached to, the communication.

''(c) FORWARDING OF REPORT TO LAW ENFORCEMENT.—

''(1) IN GENERAL.—The National Center for Missing and Exploited Children shall forward each report made under subsection (a)(1) to any appropriate law enforcement agency designated by the Attorney General under subsection (d)(2).

''(2) STATE AND LOCAL LAW ENFORCEMENT.—The National Center for Missing and Exploited Children may forward any report made under subsection (a)(1) to an appropriate law enforcement official of a State or political subdivision of a State for the purpose of enforcing State criminal law.

''(3) FOREIGN LAW ENFORCEMENT.—

''(A) IN GENERAL.—The National Center for Missing and Exploited Children may forward any report made under subsection (a)(1) to any appropriate foreign law enforcement agency designated by the Attorney General under subsection (d)(3), subject to the conditions established by the Attorney General under subsection (d)(3).

''(B) TRANSMITTAL TO DESIGNATED FEDERAL AGENCIES.—If the National Center for Missing and Exploited Children forwards a report to a foreign law enforcement agency under subparagraph (A), the National Center for Missing and Exploited Children shall concurrently provide a copy of the report and the identity of the foreign law enforcement agency to—

''(i) the Attorney General; or

''(ii) the Federal law enforcement agency or agencies designated by the Attorney General under subsection (d)(2).

''(d) ATTORNEY GENERAL RESPONSIBILITIES.—

''(1) IN GENERAL.—The Attorney General shall enforce this section.

''(2) DESIGNATION OF FEDERAL AGENCIES.—The Attorney General shall designate promptly the Federal law enforcement agency or agencies to which a report shall be forwarded under subsection (c)(1).

''(3) DESIGNATION OF FOREIGN AGENCIES.—The Attorney General shall promptly—

''(A) in consultation with the Secretary of State, designate the foreign law enforcement agencies to which a report may be forwarded under subsection (c)(3);

''(B) establish the conditions under which such a report may be forwarded to such agencies; and

''(C) develop a process for foreign law enforcement agencies to request assistance from Federal law enforcement agencies in obtaining evidence related to a report referred under subsection (c)(3).

''(4) REPORTING DESIGNATED FOREIGN AGENCIES.—The Attorney General shall maintain and make available to the Department of State, the National Center for Missing and Exploited Children, electronic communication service providers, remote computing service providers, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a list of the foreign law enforcement agencies designated under paragraph (3).

''(5) SENSE OF CONGRESS REGARDING DESIGNATION OF FOREIGN AGENCIES.—It is the sense of Congress that—

''(A) combating the international manufacturing, possession, and trade in online child pornography requires cooperation with competent, qualified, and appropriately trained foreign law enforcement agencies; and

''(B) the Attorney General, in cooperation with the Secretary of State, should make a substantial effort to expand the list of foreign agencies designated under paragraph (3).

''(6) NOTIFICATION TO PROVIDERS.—If an electronic communication service provider or remote computing service provider notifies the National Center for Missing and Exploited Children that the electronic communication service provider or remote computing service provider is making a report under this section as the result of a request by a foreign law enforcement agency, the National Center for Missing and Exploited Children shall—

''(A) if the Center forwards the report to the requesting foreign law enforcement agency or another agency in the same country designated by the Attorney General under paragraph (3), notify the electronic communication service provider or remote computing service provider of—

''(i) the identity of the foreign law enforcement agency to which the report was forwarded; and

''(ii) the date on which the report was forwarded; or

''(B) notify the electronic communication service provider or remote computing service provider if the Center declines to forward the report because the Center, in consultation with the Attorney General, determines that no law enforcement agency in the foreign country has been designated by the Attorney General under paragraph (3).

''(e) FAILURE TO REPORT.—An electronic communication service provider or remote computing service provider that knowingly and willfully fails to make a report required under subsection (a)(1) shall be fined—

''(1) in the case of an initial knowing and willful failure to make a report, not more than $150,000; and

''(2) in the case of any second or subsequent knowing and willful failure to make a report, not more than $300,000.

''(f) PROTECTION OF PRIVACY.—Nothing in this section shall be construed to require an electronic communication service provider or a remote computing service provider to—

''(1) monitor any user, subscriber, or customer of that provider;

''(2) monitor the content of any communication of any person described in paragraph (1); or

''(3) affirmatively seek facts or circumstances described in sections (a) and (b).

''(g) CONDITIONS OF DISCLOSURE INFORMATION CONTAINED WITHIN REPORT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a law enforcement agency that receives a report under subsection (c) shall not disclose any information contained in that report.

''(2) PERMITTED DISCLOSURES BY LAW ENFORCEMENT.—

''(A) IN GENERAL.—A law enforcement agency may disclose information in a report received under subsection (c)—

''(i) to an attorney for the government for use in the performance of the official duties of that attorney;

''(ii) to such officers and employees of that law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

''(iii) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law;

''(iv) if the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law;

''(v) to a defendant in a criminal case or the attorney for that defendant, subject to the terms and limitations under section 3509(m) or a similar State law, to the extent the information relates to a criminal charge pending against that defendant;

''(vi) subject to subparagraph (B), to an electronic communication service provider or remote computing provider if necessary to facilitate response to legal process issued in connection to a criminal investigation, prosecution, or post-conviction remedy relating to that report; and

''(vii) as ordered by a court upon a showing of good cause and pursuant to any protective orders or other conditions that the court may impose.

''(B) LIMITATIONS.—

''(i) LIMITATIONS ON FURTHER DISCLOSURE.—The electronic communication service provider or remote computing service provider shall be prohibited from disclosing the contents of a report provided under subparagraph (A)(vi) to any person, except as necessary to respond to the legal process.

''(ii) EFFECT.—Nothing in subparagraph (A)(vi) authorizes a law enforcement agency to provide child pornography images to an electronic communications service provider or a remote computing service.

''(3) PERMITTED DISCLOSURES BY THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—The National Center for Missing and Exploited Children may disclose information received in a report under subsection (a) only—

''(A) to any Federal law enforcement agency designated by the Attorney General under subsection (d)(2);

''(B) to any State, local, or tribal law enforcement agency involved in the investigation of child pornography, child exploitation, kidnapping, or enticement crimes;

''(C) to any foreign law enforcement agency designated by the Attorney General under subsection (d)(3); and

''(D) to an electronic communication service provider or remote computing service provider as described in section 2258C.

''(h) PRESERVATION.—

''(1) IN GENERAL.—For the purposes of this section, the notification to an electronic communication service provider or a remote computing service provider by the CyberTipline of receipt of a report under subsection (a)(1) shall be treated as a request to preserve, as if such request was made pursuant to section 2703(f).

''(2) PRESERVATION OF REPORT.—Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve the contents of the report provided pursuant to subsection (b) for 90 days after such notification by the CyberTipline.

''(3) PRESERVATION OF COMMINGLED IMAGES.—Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve any images, data, or other digital files that are commingled or interspersed among the images of apparent child pornography within a particular communication or user-created folder or directory.

''(4) PROTECTION OF PRESERVED MATERIALS.—An electronic communications service or remote computing service preserving materials under this section shall maintain the materials in a secure location and take appropriate steps to limit access by agents or employees of the service to the materials to that access necessary to comply with the requirements of this subsection.

''(5) AUTHORITIES AND DUTIES NOT AFFECTED.—Nothing in this section shall be construed as replacing, amending, or otherwise interfering with the authorities and duties under section 2703.

''SEC. 2258B. LIMITED LIABILITY FOR ELECTRONIC COMMUNICATION SERVICE PROVIDERS, REMOTE COMPUTING SERVICE PROVIDERS, OR DOMAIN NAME REGISTRAR.

''(a) IN GENERAL.—Except as provided in subsection (b), a civil claim or criminal charge against an electronic communication service provider, a remote computing service provider, or domain name registrar, including any director, officer, employee, or agent of such electronic communication service provider, remote computing service provider, or domain name registrar arising from the performance of the reporting or preservation responsibilities of such electronic communication service provider, remote computing service provider, or domain name registrar under this section, section 2258A, or section 2258C may not be brought in any Federal or State court.

''(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim if the electronic communication service provider, remote computing service provider, or domain name registrar, or a director, officer, employee, or agent of that electronic communication service provider, remote computing service provider, or domain name registrar—

''(1) engaged in intentional misconduct; or

''(2) acted, or failed to act—

''(A) with actual malice;

''(B) with reckless disregard to a substantial risk of causing physical injury without legal justification; or

''(C) for a purpose unrelated to the performance of any responsibility or function under this section, sections 2258A, 2258C, 2702, or 2703.

''(c) MINIMIZING ACCESS.—An electronic communication service provider, a remote computing service provider, and domain name registrar shall—

''(1) minimize the number of employees that are provided access to any image provided under section 2258A or 2258C; and

''(2) ensure that any such image is permanently destroyed, upon a request from a law enforcement agency to destroy the image.

''SEC. 2258C. USE TO COMBAT CHILD PORNOGRAPHY OF TECHNICAL ELEMENTS RELATING TO IMAGES REPORTED TO THE CYBERTIPLINE.

''(a) ELEMENTS.—

''(1) IN GENERAL.—The National Center for Missing and Exploited Children may provide elements relating to any apparent child pornography image of an identified child to an electronic communication service provider or a remote computing service provider for the sole and exclusive purpose of permitting that electronic communication service provider or remote computing service provider to stop the further transmission of images.

''(2) INCLUSIONS.—The elements authorized under paragraph (1) may include hash values or other unique identifiers associated with a specific image, Internet location of images, and other technological elements that can be used to identify and stop the transmission of child pornography.

''(3) EXCLUSION.—The elements authorized under paragraph (1) may not include the actual images.

''(b) USE BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.—Any electronic communication service provider or remote computing service provider that receives elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children under this section may use such information only for the purposes described in this section, provided that such use shall not relieve that electronic communication service provider or remote computing service

provider from its reporting obligations under section 2258A.

''(c) LIMITATIONS.—Nothing in subsections (a) or (b) requires electronic communication service providers or remote computing service providers receiving elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children to use the elements to stop the further transmission of the images.

''(d) PROVISION OF ELEMENTS TO LAW ENFORCEMENT.—The National Center for Missing and Exploited Children shall make available to Federal, State, and local law enforcement involved in the investigation of child pornography crimes elements, including hash values, relating to any apparent child pornography image of an identified child reported to the National Center for Missing and Exploited Children.

''(e) USE BY LAW ENFORCEMENT.—Any Federal, State, or local law enforcement agency that receives elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children under section (d) may use such elements only in the performance of the official duties of that agency to investigate child pornography crimes.

''SEC. 2258D. LIMITED LIABILITY FOR THE NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), a civil claim or criminal charge against the National Center for Missing and Exploited Children, including any director, officer, employee, or agent of such center, arising from the performance of the CyberTipline responsibilities or functions of such center, as described in this section, section 2258A or 2258C of this title, or section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773), or from the effort of such center to identify child victims may not be brought in any Federal or State court.

''(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) shall not apply to a claim or charge if the National Center for Missing and Exploited Children, or a director, officer, employee, or agent of such center—

''(1) engaged in intentional misconduct; or

''(2) acted, or failed to act—

''(A) with actual malice;

''(B) with reckless disregard to a substantial risk of causing injury without legal justification; or

''(C) for a purpose unrelated to the performance of any responsibility or function under this section, section 2258A or 2258C of this title, or section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773).

''(c) ORDINARY BUSINESS ACTIVITIES.—Subsection (a) shall not apply to an act or omission relating to an ordinary business activity, including general administration or operations, the use of motor vehicles, or personnel management.

''(d) MINIMIZING ACCESS.—The National Center for Missing and Exploited Children shall—

''(1) minimize the number of employees that are provided access to any image provided under section 2258A; and

''(2) ensure that any such image is permanently destroyed upon notification from a law enforcement agency.

''SEC. 2258E. DEFINITIONS.

''In sections 2258A through 2258D—

''(1) the terms 'attorney for the government' and 'State' have the meanings given those terms in rule 1 of the Federal Rules of Criminal Procedure;

''(2) the term 'electronic communication service' has the meaning given that term in section 2510;

''(3) the term 'electronic mail address' has the meaning given that term in section 3 of the CAN-SPAM Act of 2003 (15 U.S.C. 7702);

''(4) the term 'Internet' has the meaning given that term in section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note);

''(5) the term 'remote computing service' has the meaning given that term in section 2711; and

''(6) the term 'website' means any collection of material placed in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol or any successor protocol.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPEAL OF SUPERCEDED PROVISION.—Section 227 of the Crime Control Act of 1990 (42 U.S.C. 13032) is repealed.

(2) TECHNICAL CORRECTIONS.—Section 2702 of title 18, United States Code, is amended—

(A) in subsection (b)(6), by striking ''section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032)'' and inserting ''section 2258A''; and

(B) in subsection (c)(5), by striking ''section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032)'' and inserting ''section 2258A''.

(3) TABLE OF SECTIONS.—The table of sections for chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2258 the following:

''2258A. Reporting requirements of electronic communication service providers and remote computing service providers.

''2258B. Limited liability for electronic communication service providers and remote computing service providers.

''2258C. Use to combat child pornography of technical elements relating to images reported to the CyberTipline.

''2258D. Limited liability for the National Center for Missing and Exploited Children.

''2258E. Definitions.''.

SEC. 502. REPORTS.

(a) ATTORNEY GENERAL REPORT ON IMPLEMENTATION, INVESTIGATIVE METHODS AND INFORMATION SHARING.—Not later than 12 months after the date of enactment of this Act, the Attorney General shall submit a report to the Committee on the Judiciary of Senate and the Committee on the Judiciary of the House of Representatives on —

(1) the structure established in this Act, including the respective functions of the National Center for Missing and Exploited Children, Department of Justice, and other entities that participate in information sharing under this Act;

(2) an assessment of the legal and constitutional implications of such structure;

(3) the privacy safeguards contained in the reporting requirements, including the training, qualifications, recruitment and screening of all Federal and non-Federal personnel implementing this Act; and

(4) information relating to the aggregate number of incidents reported under section 2258A(b) of title 18, United States Code, to Federal and State law enforcement agencies based on the reporting requirements under this Act and the aggregate number of times that elements are provided to communication service providers under section 2258C of such title.

(b) GAO AUDIT AND REPORT ON EFFICIENCY AND EFFECTIVENESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall conduct an audit and submit a report to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives on—

(1) the efforts, activities, and actions of the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline, and the Attorney General in achieving the goals and purposes of this Act, as well as in carrying out any responsibilities or duties assigned to each such individual or agency under this Act;

(2) any legislative, administrative, or regulatory changes that the Comptroller General recommends be taken by or on behalf of the Attorney General to better achieve such goals and purposes, and to more effectively carry out such responsibilities and duties;

(3) the effectiveness of any actions taken and efforts made by the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline and the Attorney General to—

(A) minimize duplicating the efforts, materials, facilities, and procedures of any other Federal agency responsible for the enforcement, investigation, or prosecution of child pornography crimes; and

(B) enhance the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute child pornography crimes , including the use of existing personnel, materials, technologies, and facilities; and

(4) any actions or efforts that the Comptroller General recommends be taken by the Attorney General to reduce duplication of efforts and increase the efficiency and consistency with which Federal funds and resources are expended to enforce, investigate, or prosecute child pornography crimes.

SEC. 503. SEVERABILITY.

If any provision of this title or amendment made by this title is held to be unconstitutional, the remainder of the provisions of this title or amendments made by this title—

(1) shall remain in full force and effect; and

(2) shall not be affected by the holding.

SA 5651. Mr. DURBIN (for Mr. BIDEN) proposed an amendment to the bill S. 1738, to require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators; as follows:

Amend the title so as to read: ''To require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.''.

SA 5652. Mr. DURBIN (for Mr. LEAHY) proposed an amendment to the bill S. 2982, to amend the Runaway and Homeless Youth Act to authorize appropriations, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reconnecting Homeless Youth Act of 2008''.

SEC. 2. FINDINGS.

Section 302 of the Runaway and Homeless Youth Act (42 U.S.C. 5701) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) services to such young people should be developed and provided using a positive youth development approach that ensures a young person a sense of—

''(A) safety and structure;

''(B) belonging and membership;

''(C) self-worth and social contribution;

''(D) independence and control over one's life; and

''(E) closeness in interpersonal relationships.''.

SEC. 3. BASIC CENTER PROGRAM.

(a) SERVICES PROVIDED.—Section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended—

(1) in subsection (a)(2)(B), by striking clause (i) and inserting the following:

''(i) safe and appropriate shelter provided for not to exceed 21 days; and''; and

(2) in subsection (b)(2)—

(A) by striking ''(2) The'' and inserting ''(2)(A) Except as provided in subparagraph (B), the'';

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

(C) by striking ''$45,000'' and inserting ''$70,000''; and

(D) by adding at the end the following:

''(B) For fiscal years 2009 and 2010, the amount allotted under paragraph (1) with respect to a State for a fiscal year shall be not less than the amount allotted under paragraph (1) with respect to such State for fiscal year 2008.

''(C) Whenever the Secretary determines that any part of the amount allotted under paragraph (1) to a State for a fiscal year will not be obligated before the end of the fiscal year, the Secretary shall reallot such part to the remaining States for obligation for the fiscal year.''.

(b) ELIGIBILITY.—Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(1) in paragraph (11), by striking ''and'' at the end;

(2) in paragraph (12), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(13) shall develop an adequate emergency preparedness and management plan.''.

SEC. 4. TRANSITIONAL LIVING GRANT PROGRAM.

(a) ELIGIBILITY.—Section 322(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''directly or indirectly'' and inserting ''by grant, agreement, or contract''; and

(B) by striking ''services'' the first place it appears and inserting ''provide, by grant, agreement, or contract, services,'';

(2) in paragraph (2), by striking ''a continuous period not to exceed 540 days, except that'' and all that follows and inserting the following: ''a continuous period not to exceed 540 days, or in exceptional circumstances 635 days, except that a youth in a program under this part who has not reached 18 years of age on the last day of the 635-day period may, in exceptional circumstances and if otherwise qualified for the program, remain in the program until the youth's 18th birthday;'';

(3) in paragraph (14), by striking ''and'' at the end;

(4) in paragraph (15), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(16) to develop an adequate emergency preparedness and management plan.''.

(b) DEFINITIONS.—Section 322(c) of the Runaway and Homeless Youth Act (42 U.S.C. 5714-2(c)) is amended by—

(1) striking ''part, the term'' and inserting the following: ''part—

''(1) the term'';

(2) striking the period and inserting ''; and''; and

(3) adding at the end thereof the following:

''(2) the term 'exceptional circumstances' means circumstances in which a youth would benefit to an unusual extent from additional time in the program.''.

SEC. 5. GRANTS FOR RESEARCH EVALUATION, DEMONSTRATION, AND SERVICE PROJECTS.

Section 343 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–23) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''special consideration'' and inserting ''priority'';

(B) in paragraph (8)—

(i) by striking ''to health'' and inserting ''to quality health'';

(ii) by striking ''mental health care'' and inserting ''behavioral health care''; and

(iii) by striking ''and'' at the end;

(C) in paragraph (9), by striking the period at the end and inserting '', including access to educational and workforce programs to achieve outcomes such as decreasing secondary school dropout rates, increasing rates of attaining a secondary school diploma or its recognized equivalent, or increasing placement and retention in postsecondary education or advanced workforce training programs; and''; and

(D) by adding at the end the following:

''(10) providing programs, including innovative programs, that assist youth in obtaining and maintaining safe and stable housing, and which may include programs with supportive services that continue after the youth complete the remainder of the programs.''; and

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

''(c) In selecting among applicants for grants under subsection (a), the Secretary shall—

''(1) give priority to applicants who have experience working with runaway or homeless youth; and

''(2) ensure that the applicants selected—

''(A) represent diverse geographic regions of the United States; and

''(B) carry out projects that serve diverse populations of runaway or homeless youth.''.

SEC. 6. COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES.

Part D of the Runaway and Homeless Youth Act (42 U.S.C. 5714–21 et seq.) is amended by adding at the end the following:

''SEC. 345. PERIODIC ESTIMATE OF INCIDENCE AND PREVALENCE OF YOUTH HOMELESSNESS.

''(a) PERIODIC ESTIMATE.—Not later than 2 years after the date of enactment of the Reconnecting Homeless Youth Act of 2008, and at 5-year intervals thereafter, the Secretary, in consultation with the United States Interagency Council on Homelessness, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate, and make available to the public, a report—

''(1) by using the best quantitative and qualitative social science research methods available, containing an estimate of the incidence and prevalence of runaway and homeless individuals who are not less than 13 years of age but are less than 26 years of age; and

''(2) that includes with such estimate an assessment of the characteristics of such individuals.

''(b) CONTENT.—The report required by subsection (a) shall include—

''(1) the results of conducting a survey of, and direct interviews with, a representative sample of runaway and homeless individuals who are not less than 13 years of age but are less than 26 years of age, to determine past and current—

''(A) socioeconomic characteristics of such individuals; and

''(B) barriers to such individuals obtaining—

''(i) safe, quality, and affordable housing;

''(ii) comprehensive and affordable health insurance and health services; and

''(iii) incomes, public benefits, supportive services, and connections to caring adults; and

''(2) such other information as the Secretary determines, in consultation with States, units of local government, and national nongovernmental organizations concerned with homelessness, may be useful.

''(c) IMPLEMENTATION.—If the Secretary enters into any contract with a non-Federal entity for purposes of carrying out subsection (a), such entity shall be a nongovernmental organization, or an individual, determined by the Secretary to have appropriate expertise in quantitative and qualitative social science research.''.

SEC. 7. SEXUAL ABUSE PREVENTION PROGRAM.

Section 351(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–41(b)) is amended by inserting ''public and'' after ''priority to''.

SEC. 8. PERFORMANCE STANDARDS.

Part F of the Runaway and Homeless Youth Act (42 U.S.C. 5714a et seq.) is amended by inserting after section 386 the following:

''SEC. 386A. PERFORMANCE STANDARDS.

''(a) ESTABLISHMENT OF PERFORMANCE STANDARDS.—Not later than 1 year after the date of enactment of the Reconnecting Homeless Youth Act of 2008, the Secretary shall issue rules that specify performance standards for public and nonprofit private entities and agencies that receive grants under sections 311, 321, and 351.

''(b) CONSULTATION.—The Secretary shall consult with representatives of public and nonprofit private entities and agencies that receive grants under this title, including statewide and regional nonprofit organizations (including combinations of such organizations) that receive grants under this title, and national nonprofit organizations concerned with youth homelessness, in developing the performance standards required by subsection (a).

''(c) IMPLEMENTATION OF PERFORMANCE STANDARDS.—The Secretary shall integrate the performance standards into the processes of the Department of Health and Human Services for grantmaking, monitoring, and evaluation for programs under sections 311, 321, and 351.''.

SEC. 9. GOVERNMENT ACCOUNTABILITY OFFICE STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study, including making findings and recommendations, relating to the processes for making grants under parts A, B, and E of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq., 5714–1 et seq., 5714–41).

(2) SUBJECTS.—In particular, the Comptroller General shall study—

(A) the Secretary's written responses to and other communications with applicants who do not receive grants under part A, B, or

E of such Act, to determine if the information provided in the responses and communications is conveyed clearly;

(B) the content and structure of the grant application documents, and of other associated documents (including grant announcements), to determine if the requirements of the applications and other associated documents are presented and structured in a way that gives an applicant a clear understanding of the information that the applicant must provide in each portion of an application to successfully complete it, and a clear understanding of the terminology used throughout the application and other associated documents;

(C) the peer review process for applications for the grants, including the selection of peer reviewers, the oversight of the process by staff of the Department of Health and Human Services, and the extent to which such staff make funding determinations based on the comments and scores of the peer reviewers;

(D) the typical timeframe, and the process and responsibilities of such staff, for responding to applicants for the grants, and the efforts made by such staff to communicate with the applicants when funding decisions or funding for the grants is delayed, such as when funding is delayed due to funding of a program through appropriations made under a continuing resolution; and

(E) the plans for implementation of, and the implementation of, where practicable, the technical assistance and training programs carried out under section 342 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–22), and the effect of such programs on the application process for the grants.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report containing the findings and recommendations resulting from the study.

SEC. 10. DEFINITIONS.

(a) HOMELESS YOUTH.—Section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''The'' and all that follows through ''means'' and inserting ''The term 'homeless', used with respect to a youth, means''; and

(2) in subparagraph (A)—

(A) in clause (i)—

(i) by striking ''not more than'' each place it appears and inserting ''less than''; and

(ii) by inserting after ''age'' the last place it appears the following: '', or is less than a higher maximum age if the State where the center is located has an applicable State or local law (including a regulation) that permits such higher maximum age in compliance with licensure requirements for child- and youth-serving facilities''; and

(B) in clause (ii), by striking ''age;'' and inserting the following: ''age and either—

''(I) less than 22 years of age; or

''(II) not less than 22 years of age, as of the expiration of the maximum period of stay permitted under section 322(a)(2) if such individual commences such stay before reaching 22 years of age;''.

(b) RUNAWAY YOUTH.—Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; and

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

''(4) RUNAWAY YOUTH.—The term 'runaway', used with respect to a youth, means an individual who is less than 18 years of age and who absents himself or herself from home or a place of legal residence without the permission of a parent or legal guardian.''.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

Section 388(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''is authorized'' and inserting ''are authorized'';

(B) by striking ''part E) $105,000,000 for fiscal year 2004'' and inserting ''section 345 and part E) $140,000,000 for fiscal year 2009''; and

(C) by striking ''2005, 2006, 2007, and 2008'' and inserting ''2010, 2011, 2012, and 2013'';

(2) in paragraph (3)—

(A) by striking ''In'' and inserting the following:

''(A) IN GENERAL.—In'';

(B) by inserting ''(other than section 345)'' before the period; and

(C) by adding at the end the following:

''(B) PERIODIC ESTIMATE.—There are authorized to be appropriated to carry out section 345 such sums as may be necessary for fiscal years 2009, 2010, 2011, 2012, and 2013.''; and

(3) in paragraph (4)—

(A) by striking ''is authorized'' and inserting ''are authorized''; and

(B) by striking ''such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008'' and inserting ''$25,000,000 for fiscal year 2009 and such sums as may be necessary for fiscal years 2010, 2011, 2012, and 2013''.

SA 5653. Mr. DURBIN (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 1777, to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws; as follows:

On page 2, strike lines 5 and 6 and insert the following: ''Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking '2008' and inserting '2015'.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 9:30 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 10 a.m., in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 10 a.m., in room 406 of the Dirksen Senate Office Building to conduct a hearing entitled ''Oversight Hearing on EPA's Cleanup of the Superfund Site in Libby, Montana.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 3 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 9:30 a.m. to conduct a hearing entitled ''Preventing Nuclear Terrorism: Hard Lessons Learned From Troubled Investments.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Thursday, September 25, 2008, at 10 a.m. in room SH–216 of the Hart Senate Office Building.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 2:30 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 2:30 p.m.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on

Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, September 25, 2008, at 2:30 p.m. to conduct a hearing entitled ''Addressing Cost Growth of Major DOD Weapons Systems.''

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

PRIVILEGES OF THE FLOOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that two legal interns in my office, Corinne Beth and Arezo Yazd, be granted floor privileges for the remainder of this session.

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

COMBATING CHILD EXPLOITATION ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 862, S. 1738.

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

The assistant legislative clerk read as follows:

A bill (S. 1738) to establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Combating Child Exploitation Act of 2008''.

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

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) CHILD EXPLOITATION.—The term ''child exploitation'' means any conduct, attempted conduct, or conspiracy to engage in conduct involving a minor that violates section 1591, chapter 109A, chapter 110, and chapter 117 of title 18, United States Code, or any sexual activity involving a minor for which any person can be charged with a criminal offense.

(2) CHILD OBSCENITY.—The term ''child obscenity'' means any visual depiction proscribed by section 1466A of title 18, United States Code.

(3) MINOR.—The term ''minor'' means any person under the age of 18 years.

(4) SEXUALLY EXPLICIT CONDUCT.—The term ''sexually explicit conduct'' has the meaning given such term in section 2256 of title 18, United States Code.

TITLE I—NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION

SEC. 101. ESTABLISHMENT OF NATIONAL STRATEGY FOR CHILD EXPLOITATION PREVENTION AND INTERDICTION.

(a) IN GENERAL.—The Attorney General of the United States shall create and implement a National Strategy for Child Exploitation Prevention and Interdiction.

(b) TIMING.—Not later than February 1 of each year, the Attorney General shall submit to Congress the National Strategy established under subsection (a).

(c) REQUIRED CONTENTS OF NATIONAL STRATEGY.—The National Strategy established under subsection (a) shall include the following:

(1) Comprehensive long-range, goals for reducing child exploitation.

(2) Annual measurable objectives and specific targets to accomplish long-term, quantifiable goals that the Attorney General determines may be achieved during each year beginning on the date when the National Strategy is submitted.

(3) Annual budget priorities and Federal efforts dedicated to combating child exploitation, including resources dedicated to Internet Crimes Against Children task forces, Project Safe Childhood, FBI Innocent Images Initiative, the National Center for Missing and Exploited Children, regional forensic computer labs, Internet Safety programs, and all other entities whose goal or mission is to combat the exploitation of children that receive Federal support.

(4) A 5-year projection for program and budget goals and priorities.

(5) A review of the policies and work of the Department of Justice related to the prevention and investigation of child exploitation crimes, including efforts at the Office of Justice Programs, the Criminal Division of the Department of Justice, the Executive Office of United States Attorneys, the Federal Bureau of Investigation, the Office of the Attorney General, the Office of the Deputy Attorney General, the Office of Legal Policy, and any other agency or bureau of the Department of Justice whose activities relate to child exploitation.

(6) A description of the Department's efforts to coordinate with international, State, local, tribal law enforcement, and private sector entities on child exploitation prevention and interdiction efforts.

(7) Plans for interagency coordination regarding the prevention, investigation, and apprehension of individuals exploiting children, including cooperation and collaboration with—

(A) Immigration and Customs Enforcement;

(B) the United States Postal Inspection Service;

(C) the Department of State;

(D) the Department of Commerce;

(E) the Department of Education;

(F) the Department of Health and Human Services; and

(G) other appropriate Federal agencies.

(8) A review of the Internet Crimes Against Children Task Force Program, including—

(A) the number of ICAC task forces and location of each ICAC task force;

(B) the number of trained personnel at each ICAC task force;

(C) the amount of Federal grants awarded to each ICAC task force;

(D) an assessment of the Federal, State, and local cooperation in each task force, including—

(i) the number of arrests made by each task force;

(ii) the number of criminal referrals to United States attorneys for prosecution;

(iii) the number of prosecutions and convictions from the referrals made under clause (ii);

(iv) the number, if available, of local prosecutions and convictions based on ICAC task force investigations; and

(v) any other information demonstrating the level of Federal, State, and local coordination and cooperation, as such information is to be determined by the Attorney General;

(E) an assessment of the training opportunities and technical assistance available to support ICAC task force grantees; and

(F) an assessment of the success of the Internet Crimes Against Children Task Force Program at leveraging State and local resources and matching funds.

(9) An assessment of the technical assistance and support available for Federal, State, local, and tribal law enforcement agencies, in the prevention, investigation, and prosecution of child exploitation crimes.

(10) The backlog of forensic analysis for child exploitation cases at each FBI Regional Forensic lab and an estimate of the backlog at State and local labs.

(11) Plans for reducing the forensic backlog described in paragraph (10), if any, at Federal, State and local forensic labs.

(12) A review of the Federal programs related to child exploitation prevention and education, including those related to Internet safety, including efforts by the private sector and nonprofit entities, or any other initiatives, that have proven successful in promoting child safety and Internet safety.

(13) An assessment of the future trends, challenges, and opportunities, including new technologies, that will impact Federal, State, local, and tribal efforts to combat child exploitation.

(14) Plans for liaisons with the judicial branches of the Federal and State governments on matters relating to child exploitation.

(15) An assessment of Federal investigative and prosecution activity relating to reported incidents of child exploitation crimes, which shall include a number of factors, including—

(A) the number of high-priority suspects (identified because of the volume of suspected criminal activity or because of the danger to the community or a potential victim) who were investigated and prosecuted;

(B) the number of investigations, arrests, prosecutions and convictions for a crime of child exploitation; and

(C) the average sentence imposed and statutory maximum for each crime of child exploitation.

(16) A review of all available statistical data indicating the overall magnitude of child pornography trafficking in the United States and internationally, including—

(A) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, peer-to-peer file sharing of child pornography;

(B) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other reporting sources of engaging in, buying and selling, or other commercial activity related to child pornography;

(C) the number of computers or computer users, foreign and domestic, observed engaging in, or suspected by law enforcement agencies and other sources of engaging in, all other forms of activity related to child pornography;

(D) the number of tips or other statistical data from the National Center for Missing and Exploited Children's CybertTipline and other data indicating the magnitude of child pornography trafficking; and

(E) any other statistical data indicating the type, nature, and extent of child exploitation crime in the United States and abroad.

(17) Copies of recent relevant research and studies related to child exploitation, including—

(A) studies related to the link between possession or trafficking of child pornography and actual abuse of a child;

(B) studies related to establishing a link between the types of files being viewed or shared and the type of illegal activity; and

(C) any other research, studies, and available information related to child exploitation.

(18) A review of the extent of cooperation, coordination, and mutual support between private sector and other entities and organizations and Federal agencies, including the involvement of States, local and tribal government agencies to the extent Federal programs are involved.

(19) The results of the Project Safe Childhood Conference or other conferences or meetings convened by the Department of Justice related to combating child exploitation

(d) APPOINTMENT OF HIGH-LEVEL OFFICIAL.—

(1) IN GENERAL.—The Attorney General shall designate a senior official at the Department of Justice to be responsible for coordinating the development of the National Strategy established under subsection (a).

(2) DUTIES.—The duties of the official designated under paragraph (1) shall include—

(A) acting as a liaison with all Federal agencies regarding the development of the National Strategy;

(B) working to ensure that there is proper coordination among agencies in developing the National Strategy;

(C) being knowledgeable about budget priorities and familiar with all efforts within the Department of Justice and the FBI related to child exploitation prevention and interdiction; and

(D) presenting the National Strategy to Congress and being available to answer questions related to the strategy at congressional hearings, if requested by committees of appropriate jurisdictions, on the contents of the National Strategy and progress of the Department of Justice in implementing the National Strategy.

SEC. 102. ESTABLISHMENT OF NATIONAL ICAC TASK FORCE PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice, under the general authority of the Attorney General, a National Internet Crimes Against Children Task Force Program (hereinafter in this title referred to as the ''ICAC Task Force Program''), which shall consist of a national program of State and local law enforcement task forces dedicated to developing effective responses to online enticement of children by sexual predators, child exploitation, and child obscenity and pornography cases.

(2) INTENT OF CONGRESS.—It is the purpose and intent of Congress that the ICAC Task Force Program established under paragraph (1) is intended to continue the ICAC Task Force Program authorized under title I of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998, and funded under title IV of the Juvenile Justice and Delinquency Prevention Act of 1974.

(b) NATIONAL PROGRAM.—

(1) STATE REPRESENTATION.—The ICAC Task Force Program established under subsection (a) shall include at least 1 ICAC task force in each State.

(2) CAPACITY AND CONTINUITY OF INVESTIGATIONS.—In order to maintain established capacity and continuity of investigations and prosecutions of child exploitation cases, the Attorney General, shall, in establishing the ICAC Task Force Program under subsection (a) consult with and consider all 59 task forces in existence on the date of enactment of this Act. The Attorney General shall include all existing ICAC task forces in the ICAC Task Force Program, unless the Attorney General makes a determination that an existing ICAC does not have a proven track record of success.

SEC. 103. PURPOSE OF ICAC TASK FORCES.

The ICAC Task Force Program, and each State or local ICAC task force that is part of the national program of task forces, shall be dedicated toward—

(1) increasing the investigative capabilities of State and local law enforcement officers in the detection, investigation, and apprehension of Internet crimes against children offenses or offenders, including technology-facilitated child exploitation offenses;

(2) conducting proactive and reactive Internet crimes against children investigations;

(3) providing training and technical assistance to ICAC task forces and other Federal, State, and local law enforcement agencies in the areas of investigations, forensics, prosecution, community outreach, and capacity-building, using recognized experts to assist in the development and delivery of training programs;

(4) increasing the number of Internet crimes against children offenses being investigated and prosecuted in both Federal and State courts;

(5) creating a multiagency task force response to Internet crimes against children offenses within each State;

(6) participating in the Department of Justice's Project Safe Childhood initiative, the purpose of which is to combat technology-facilitated sexual exploitation crimes against children;

(7) enhancing nationwide responses to Internet crimes against children offenses, including assisting other ICAC task forces, as well as other Federal, State, and local agencies with Internet crimes against children investigations and prosecutions;

(8) developing and delivering Internet crimes against children public awareness and prevention programs; and

(9) participating in such other activities, both proactive and reactive, that will enhance investigations and prosecutions of Internet crimes against children.

SEC. 104. DUTIES AND FUNCTIONS OF TASK FORCES.

Each State or local ICAC task force that is part of the national program of task forces shall—

(1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of such task force;

(2) work consistently toward achieving the purposes described in section 103;

(3) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children;

(4) provide forensic, preventive, and investigative assistance to parents, educators, prosecutors, law enforcement, and others concerned with Internet crimes against children;

(5) develop multijurisdictional, multiagency responses and partnerships to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses;

(6) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resources of such task force;

(7) establish or adopt investigative and prosecution standards, consistent with established norms, to which such task force shall comply;

(8) investigate, and seek prosecution on, tips related to Internet crimes against children, including tips from the National Internet Crimes Against Children Data System established in section 105, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigative leads that indicate the possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community;

(9) develop procedures for handling seized evidence;

(10) maintain—

(A) such reports and records as are required under this title; and

(B) such other reports and records as determined by the Attorney General; and

(11) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

SEC. 105. NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM.

(a) IN GENERAL.—The Attorney General shall establish a National Internet Crimes Against Children Data System.

(b) INTENT OF CONGRESS.—It is the purpose and intent of Congress that the National Internet Crimes Against Children Data System established in subsection (a) is intended to continue and build upon Operation Fairplay developed by the Wyoming Attorney General's office, which has established a secure, dynamic undercover infrastructure that has facilitated online law enforcement investigations of child exploitation, information sharing, and the capacity to collect and aggregate data on the extent of the problems of child exploitation.

(c) PURPOSE OF SYSTEM.—The National Internet Crimes Against Children Data System established under subsection (a) shall be dedicated to assisting and supporting credentialed law enforcement agencies authorized to investigate child exploitation in accordance with Federal, State, local, and tribal laws, including by providing assistance and support to—

(1) Federal agencies investigating and prosecuting child exploitation;

(2) the ICAC Task Force Program established under section 102; and

(3) State, local, and tribal agencies investigating and prosecuting child exploitation.

(d) CYBER SAFE DECONFLICTION AND INFORMATION SHARING.—The National Internet Crimes Against Children Data System established under subsection (a)—

(1) shall be housed and maintained within the Department of Justice or a credentialed law enforcement agency;

(2) shall be made available for a nominal charge to support credentialed law enforcement agencies in accordance with subsection (c); and

(3) shall—

(A) allow Federal, State, local, and tribal agencies and ICAC task forces investigating and prosecuting child exploitation to contribute and access data for use in resolving case conflicts;

(B) provide, directly or in partnership with a credentialed law enforcement agency, a dynamic undercover infrastructure to facilitate online law enforcement investigations of child exploitation;

(C) facilitate the development of essential software and network capability for law enforcement participants; and

(D) provide software or direct hosting and support for online investigations of child exploitation activities, or, in the alternative, provide users with a secure connection to an alternative system that provides such capabilities, provided that the system is hosted within a governmental agency or a credentialed law enforcement agency.

(e) COLLECTION AND REPORTING OF DATA.—

(1) IN GENERAL.—The National Internet Crimes Against Children Data System established under subsection (a) shall ensure the following:

(A) REAL-TIME REPORTING.—All child exploitation cases involving local child victims that are reasonably detectable using available software and data are, immediately upon their detection, made available to participating law enforcement agencies.

(B) HIGH-PRIORITY SUSPECTS.—Every 30 days, at minimum, the National Internet Crimes Against Children Data System shall—

(i) identify high-priority suspects, as such suspects are determined by the volume of suspected criminal activity or other indicators of seriousness of offense or dangerousness to the community or a potential local victim; and

(ii) report all such identified high-priority suspects to participating law enforcement agencies.

(C) ANNUAL REPORTS.—Any statistical data indicating the overall magnitude of child pornography trafficking and child exploitation in the United States and internationally is made available and included in the National Strategy, as is required under section 101(c)(16).

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the ability of participating law enforcement agencies to disseminate investigative leads or statistical information in accordance with State and local laws.

(f) MANDATORY REQUIREMENTS OF NETWORK.—The National Internet Crimes Against Children Data System established under subsection (a) shall develop, deploy, and maintain an integrated technology and training program that provides—

(1) a secure, online system for Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies for use in resolving case conflicts, as provided in subsection (d);

(2) a secure system enabling online communication and collaboration by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies regarding ongoing investigations, investigatory techniques, best practices, and any other relevant news and professional information;

(3) a secure online data storage and analysis system for use by Federal law enforcement agencies, ICAC task forces, and other State, local, and tribal law enforcement agencies;

(4) secure connections or interaction with State and local law enforcement computer networks, consistent with reasonable and established security protocols and guidelines;

(5) guidelines for use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces; and

(6) training and technical assistance on the use of the National Internet Crimes Against Children Data System by Federal, State, local, and tribal law enforcement agencies and ICAC task forces.

(g) NATIONAL INTERNET CRIMES AGAINST CHILDREN DATA SYSTEM STEERING COMMITTEE.—The Attorney General shall establish a National Internet Crimes Against Children Data System Steering Committee to provide guidance to the Network relating to the program under subsection (f), and to assist in the development of strategic plans for the System. The Steering Committee shall consist of 10 members with expertise in child exploitation prevention and interdiction prosecution, investigation, or prevention, including—

(1) 3 representatives elected by the local directors of the ICAC task forces, such representatives shall represent different geographic regions of the country;

(2) 1 representative of the Department of Justice Office of Information Services;

(3) 1 representative from Operation Fairplay, currently hosted at the Wyoming Office of the Attorney General;

(4) 1 representative from the law enforcement agency having primary responsibility for hosting and maintaining the National Internet Crimes Against Children Data System;

(5) 1 representative of the Federal Bureau of Investigation's Innocent Images National Initiative or Regional Computer Forensic Lab program;

(6) 1 representative of the Immigration and Customs Enforcement's Cyber Crimes Center;

(7) 1 representative of the United States Postal Inspection Service; and

(8) 1 representative of the Department of Justice.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2009 through 2016, $2,000,000 to carry out the provisions of this section.

SEC. 106. ICAC GRANT PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Attorney General is authorized to award grants to State and local ICAC task forces to assist in carrying out the duties and functions described under section 104.

(2) FORMULA GRANTS.—

(A) DEVELOPMENT OF FORMULA.—At least 75 percent of the total funds appropriated to carry out this section shall be available to award or otherwise distribute grants pursuant to a funding formula established by the Attorney General in accordance with the requirements in subparagraph (B).

(B) FORMULA REQUIREMENTS.—Any formula established by the Attorney General under subparagraph (A) shall—

(i) ensure that each State or local ICAC task force shall, at a minimum, receive an amount equal to 0.5 percent of the funds available to award or otherwise distribute grants under subparagraph (A); and

(ii) take into consideration the following factors:

(I) The population of each State, as determined by the most recent decennial census performed by the Bureau of the Census.

(II) The number of investigative leads within the applicant's jurisdiction generated by the ICAC Data Network, the CyberTipline, and other sources.

(III) The number of criminal cases related to Internet crimes against children referred to a task force for Federal, State, or local prosecution.

(IV) The number of successful prosecutions of child exploitation cases by a task force.

(V) The amount of training, technical assistance, and public education or outreach by a task force related to the prevention, investigation, or prosecution of child exploitation offenses.

(VI) Such other criteria as the Attorney General determines demonstrate the level of need for additional resources by a task force.

(3) DISTRIBUTION OF REMAINING FUNDS BASED ON NEED.—

(A) IN GENERAL.—Any funds remaining from the total funds appropriated to carry out this section after funds have been made available to award or otherwise distribute formula grants under paragraph (2)(A) shall be distributed to State and local ICAC task forces based upon need, as set forth by criteria established by the Attorney General. Such criteria shall include the factors under paragraph (2)(B)(ii).

(B) MATCHING REQUIREMENT.—A State or local ICAC task force shall contribute matching non-Federal funds in an amount equal to not less than 25 percent of the amount of funds received by the State or local ICAC task force under subparagraph (A). A State or local ICAC task force that is not able or willing to contribute matching funds in accordance with this subparagraph shall not be eligible for funds under subparagraph (A).

(C) WAIVER.—The Attorney General may waive, in whole or in part, the matching requirement under subparagraph (B) if the State or local ICAC task force demonstrates good cause or financial hardship.

(b) APPLICATION.—

(1) IN GENERAL.—Each State or local ICAC task force seeking a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Attorney General determines to be essential to ensure compliance with the requirements of this title.

(c) ALLOWABLE USES.—Grants awarded under this section may be used to—

(1) hire personnel, investigators, prosecutors, education specialists, and forensic specialists;

(2) establish and support forensic laboratories utilized in Internet crimes against children investigations;

(3) support investigations and prosecutions of Internet crimes against children;

(4) conduct and assist with education programs to help children and parents protect themselves from Internet predators;

(5) conduct and attend training sessions related to successful investigations and prosecutions of Internet crimes against children; and

(6) fund any other activities directly related to preventing, investigating, or prosecuting Internet crimes against children.

(d) REPORTING REQUIREMENTS.—

(1) ICAC REPORTS.—To measure the results of the activities funded by grants under this section, and to assist the Attorney General in complying with the Government Performance and Results Act (Public Law 103–62; 107 Stat. 285),

each State or local ICAC task force receiving a grant under this section shall, on an annual basis, submit a report to the Attorney General that sets forth the following:

(A) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

(B) Investigation and prosecution performance measures of the task force, including—

(i) the number of investigations initiated related to Internet crimes against children;

(ii) the number of arrests related to Internet crimes against children; and

(iii) the number of prosecutions for Internet crimes against children, including—

(I) whether the prosecution resulted in a conviction for such crime; and

(II) the sentence and the statutory maximum for such crime under State law.

(C) The number of referrals made by the task force to the United States Attorneys office, including whether the referral was accepted by the United States Attorney.

(D) Statistics that account for the disposition of investigations that do not result in arrests or prosecutions, such as referrals to other law enforcement.

(E) The number of investigative technical assistance sessions that the task force provided to nonmember law enforcement agencies.

(F) The number of computer forensic examinations that the task force completed.

(G) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to Congress on—

(A) the progress of the development of the ICAC Task Force Program established under section 102; and

(B) the number of Federal and State investigations, prosecutions, and convictions in the prior 12-month period related to child exploitation.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

(1) $60,000,000 for fiscal year 2009;

(2) $75,000,000 for fiscal year 2010;

(3) $75,000,000 for fiscal year 2011;

(4) $75,000,000 for fiscal year 2012;

(5) $75,000,000 for fiscal year 2013;

(6) $75,000,000 for fiscal year 2014;

(7) $100,000,000 for fiscal year 2015; and

(8) $100,000,000 for fiscal year 2016.

(b) AVAILABILITY.—Funds appropriated under subsection (a) shall remain available until expended.

TITLE II—ADDITIONAL MEASURES TO COMBAT CHILD EXPLOITATION

SEC. 201. ADDITIONAL REGIONAL COMPUTER FORENSIC LABS.

(a) ADDITIONAL RESOURCES.—The Attorney General shall establish additional computer forensic capacity to address the current backlog for computer forensics, including for child exploitation investigations. The Attorney General may utilize funds under this title to increase capacity at existing regional forensic laboratories or to add laboratories under the Regional Computer Forensic Laboratories Program operated by the Federal Bureau of Investigation.

(b) PURPOSE OF NEW RESOURCES.—The additional forensic capacity established by resources provided under this section shall be dedicated to assist Federal agencies, State and local Internet Crimes Against Children task forces, and other Federal, State, and local law enforcement agencies in preventing, investigating, and prosecuting Internet crimes against children.

(c) NEW COMPUTER FORENSIC LABS.—If the Attorney General determines that new regional computer forensic laboratories are required under subsection (a) to best address existing backlogs, such new laboratories shall be established pursuant to subsection (d).

(d) LOCATION OF NEW LABS.—The location of any new regional computer forensic laboratories under this section shall be determined by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation, the Regional Computer Forensic Laboratory National Steering Committee, and other relevant stakeholders.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, and every year thereafter, the Attorney General shall submit a report to the Congress on how the funds appropriated under this section were utilized.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2009 through 2016, $7,000,000 to carry out the provisions of this section.

SEC. 202. ADDITIONAL FIELD AGENTS FOR THE FBI.

(a) IN GENERAL.—There are authorized to be appropriated to the Attorney General $30,000,000 for each of the fiscal years 2009 through 2016 to fund the hiring of full-time Federal Bureau of Investigation field agents and associated analysts and support staff in addition to the number of such employees serving in those capacities on the date of enactment of this Act.

(b) SOLE PURPOSE.—The sole purpose of the additional staff required to be hired under subsection (a) is to work on child exploitation cases as part of the Federal Bureau of Investigation's Innocent Images National Initiative.

SEC. 203. IMMIGRATION AND CUSTOMS ENFORCEMENT ENHANCEMENT.

(a) ADDITIONAL AGENTS.—There are authorized to be appropriated to the Secretary of Homeland Security $15,000,000, for each of the fiscal years 2009 through 2016, to fund the hiring of full-time agents and associated analysts and support staff within the Bureau of Immigration and Customs Enforcement in addition to the number of such employees serving in those capacities on the date of enactment of this Act.

(b) SOLE PURPOSE.—The sole purpose of the additional staff required to be hired under subsection (a) is to work on child exploitation and child obscenity cases.

SEC. 204. COMBATING CHILD EXPLOITATION VIA THE UNITED STATES POSTAL SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated to the Postmaster General $5,000,000, for each of the fiscal years 2009 through 2016, to fund the hiring of full-time postal inspectors and associated analysts and support staff in addition to the number of such employees serving in those capacities on the date of the enactment of this Act.

(b) SOLE PURPOSE.—The sole purpose of the additional staff required to be hired under subsection (a) is to work on child exploitation and child obscenity cases and may be used to support the Deliver Me Home program developed by the United States Postal Service.

TITLE III—EFFECTIVE CHILD PORNOGRAPHY PROSECUTION

SEC. 301. EFFECTIVE CHILD PORNOGRAPHY PROSECUTION.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Section 2251 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''knows or has reason to know'' and all that follows through the period at the end, and inserting ''transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, if such visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed.'';

(2) in subsection (b), by striking ''knows or has reason to know'' and all that follows through the period at the end, and inserting ''transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, if such visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer, or if such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed.'';

(3) in subsection (c)(2)—

(A) in subparagraph (A), by striking ''computer'' and inserting ''using a facility or means of interstate or foreign commerce''; and

(B) in subparagraph (B), by striking ''computer'' and inserting ''using a facility or means of interstate or foreign commerce''; and

(4) in subsection (d)(2)—

(A) in subparagraph (A), by striking ''transported in interstate'' and all that follows through ''computer'' and inserting ''transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce,''; and

(B) in subparagraph (B), by striking ''transported in interstate'' and all that follows through ''computer'' and inserting ''transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce,''.

(b) SELLING OR BUYING OF CHILDREN.—Subsection (c)(2) of section 2251A of title 18, United States Code, is amended by striking ''in interstate or foreign'' and all that follows through ''computer or'' and inserting ''in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce, or by''.

(c) MATERIAL INVOLVING THE SEXUAL EXPLOITATION OF MINORS.—Subsection (a) of section 2252 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ''in interstate or foreign'' and all that follows through ''computer'' and inserting ''in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce'';

(2) in paragraph (2)—

(A) by striking ''has been shipped or transported in interstate or foreign commerce'' and inserting ''has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce''; and

(B) by striking ''distribution in interstate or foreign commerce'' and inserting ''distribution in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce'';

(3) in paragraph (3)(B), by striking ''has been shipped or transported in interstate or foreign commerce'' and inserting ''has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce''; and

(4) in paragraph (4)(B), by striking ''has been shipped or transported in interstate or foreign commerce'' and inserting ''has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce''.

(d) MATERIAL CONSTITUTING OR CONTAINING CHILD PORNOGRAPHY.—Subsection (a) of section 2252A of title 18, United States Code, is amended—

(1) by striking ''in interstate or foreign commerce by any means, including by computer'' each place that term appears and inserting ''in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce''; and

(2) in paragraph (6)(C), by striking ''or by transmitting or causing to be transmitted any wire communication in interstate or foreign

commerce, including by computer'' and inserting ''or a facility or means of interstate or foreign commerce''.

(e) OBSCENE VISUAL REPRESENTATIONS OF THE SEXUAL ABUSE OF CHILDREN.—Subsection (d)(4) of section 1466A of title 18, United States Code, is amended by striking ''has been shipped transported in interstate or foreign commerce by any means, including by computer'' and inserting ''has been shipped or transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce''.

(f) RULE OF CONSTRUCTION.—Nothing in this title, or any amendment by this title, shall be construed to foreclose any argument or ruling with respect to any Federal law that, for the purposes of Federal jurisdiction, the use of a facility or means of interstate or foreign commerce affects interstate or foreign commerce.

SEC. 302. PROHIBIT THE BROADCAST OF LIVE IMAGES OF CHILD ABUSE.

Section 2251 of title 18, United States Code is amended—

(1) in subsection (a), by—

(A) inserting ''or for the purpose of transmitting a live visual depiction of such conduct'' after ''for the purpose of producing any visual depiction of such conduct'';

(B) inserting ''or transmitted'' after ''if such person knows or has reason to know that such visual depiction will be transported'';

(C) inserting ''or transmitted'' after ''if that visual depiction was produced''; and

(D) inserting ''or transmitted'' after ''has actually been transported''; and

(2) in subsection (b), by—

(A) inserting ''or for the purpose of transmitting a live visual depiction of such conduct'' after ''for the purpose of producing any visual depiction of such conduct'';

(B) inserting ''or transmitted'' after ''person knows or has reason to know that such visual depiction will be transported'';

(C) inserting ''or transmitted'' after ''if that visual depiction was produced''; and

(D) inserting ''or transmitted'' after ''has actually been transported''.

SEC. 303. AMENDMENT TO SECTION 2256 OF TITLE 18, UNITED STATES CODE.

Section 2256(5) of title 18, United States Code is amended by—

(1) striking ''and'' before ''data'';

(2) after ''visual image'' by inserting '', and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format''.

SEC. 304. AMENDMENT TO SECTION 2260 OF TITLE 18, UNITED STATES CODE.

Section 2260(a) of title 18, United States Code, is amended by—

(1) inserting ''or for the purpose of transmitting a live visual depiction of such conduct'' after ''for the purpose of producing any visual depiction of such conduct''; and

(2) inserting ''or transmitted'' after ''imported''.

SEC. 305. PROHIBITING THE ALTERATION OF AN IMAGE OF A REAL CHILD TO CREATE AN IMAGE OF SEXUALLY EXPLICIT CONDUCT.

(a) IN GENERAL.—Subsection (a) of section 2252A of title 18, United States Code, is amended—

(1) in paragraph (5) by striking ''; or'' and inserting a semicolon;

(2) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(3) by inserting at the end the following:

''(7) knowingly creates, alters, adapts, or modifies a visual depiction of an identifiable minor, as defined in section 2256(9), so that it depicts child pornography as defined in section 2256(8), and intends to distribute or actually distributes that visual depiction by any means, where such person knows or has reason to know that such visual depiction will be transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, where such visual depiction has actually been transported in or affecting interstate or foreign commerce or using a facility or means of interstate or foreign commerce or mailed, or where the visual depiction was produced using materials that have been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer,''.

(b) PENALTY.—Section 2252A(b) of title 18, United States Code, is amended by striking ''(4), or (6)'' and inserting ''(4), (6), or (7)''.

SEC. 306. REFERRALS TO AUTHORIZED FOREIGN LAW ENFORCEMENT AGENCIES.

(a) VOLUNTARY REPORTS.—A provider of electronic communication services or remote computing services may voluntarily make a report, as defined at section 227(b)(1) of the Victims of Child abuse Act of 1990 (42 U.S.C. 13032(b)(1)), directly to a representative of a foreign law enforcement agency—

(1) of a foreign state that is a signatory to a Mutual Legal Assistance Treaty with the United States that has been ratified by the United States Senate and has come into force; and

(2) that has certified in writing that the request is made for the purpose of investigating, or engaging in enforcement proceedings related to, possible violations of foreign laws related to child pornography and child exploitation similar to practices prohibited by sections 2251, 2251A, 2252, 2252A, 2252B, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), or 1466A of that title.

(b) REPORTS TO FOREIGN LAW ENFORCEMENT.—Reports to foreign law enforcement may only be transmitted to the Central Authority designated in the foreign country's Mutual Legal Assistance Treaty with the United States and may only be transmitted via mail or fax, or via electronic mail to a government-owned e-mail domain.

(c) REPORTS TO NCMEC.—Nothing in this section shall be construed to relieve providers of electronic communication services or remote computing services of their obligations under section 227(b)(1) of the Victims of Child abuse Act of 1990 (42 U.S.C. 13032(b)(1)) to make reports to the National Center for Missing and Exploited Children.

(d) LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), a provider of electronic communication services or remote computing services, or any of its directors, officers, employees, or agents, is not liable in any civil or criminal action arising from the performance of the reporting activities described in subsection (a).

(2) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Paragraph (1) does not apply in an action in which a party proves that the provider of electronic communication services or remote computing services, or its officer, employee, or agent as the case may be, engaged in intentional misconduct or acted with actual malice, or with reckless disregard to a substantial risk of causing injury without legal justification.

TITLE IV—NATIONAL INSTITUTE OF JUSTICE STUDY OF RISK FACTORS

SEC. 401. NIJ STUDY OF RISK FACTORS FOR ASSESSING DANGEROUSNESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall prepare a report to identify investigative factors that reliably indicate whether a subject of an online child exploitation investigation poses a higher risk of harm to children. Such a report shall be prepared in consultation and coordination with Federal law enforcement agencies, the National Center for Missing and Exploited Children, Operation Fairplay at the Wyoming Attorney General's Office, the Internet Crimes Against Children Task Force, and other State and local law enforcement.

(b) CONTENTS OF ANALYSIS.—The report required by subsection (a) shall include a thorough analysis of potential investigative factors in on-line child exploitation cases and an appropriate examination of investigative data from prior prosecutions and case files of identified child victims.

(c) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the National Institute of Justice shall submit a report to the House and Senate Judiciary Committees that includes the findings of the study required by this section and makes recommendations on technological tools and law enforcement procedures to help investigators prioritize scarce resources to those cases where there is actual hands-on abuse by the suspect.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to the National Institute of Justice to conduct the study required under this section.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee substitute be withdrawn; a Biden substitute amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the title amendment be agreed to; the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5650) was agreed to.

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

The bill (S. 1738), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

The amendment (No. 5651) was agreed to, as follows:

Amend the title so as to read: ''To require the Department of Justice to develop and implement a National Strategy Child Exploitation Prevention and Interdiction, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute child predators.''

RUNAWAY AND HOMELESS PROTECTION ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 751, S. 2982.

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

The assistant legislative clerk read as follows:

A bill (S. 2982) to amend the Runaway and Homeless Youth Act to authorize appropriations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu there of the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Runaway and Homeless Youth Protection Act''.

SEC. 2. FINDINGS.

Section 302 of the Runaway and Homeless Youth Act (42 U.S.C. 5701) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following:

''(3) services to such young people should be developed and provided using a positive youth development approach that ensures a young person a sense of—

''(A) safety and structure;

''(B) belonging and membership;

''(C) self-worth and social contribution;

''(D) independence and control over one's life; and

''(E) closeness in interpersonal relationships.''.

SEC. 3. BASIC CENTER PROGRAM.

(a) SERVICES PROVIDED.—Section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended—

(1) in subsection (a)(2)(B), by striking clause (i) and inserting the following:

''(i) safe and appropriate shelter provided for not to exceed 21 days; and''; and

(2) in subsection (b)(2)—

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

(B) by striking ''$45,000'' and inserting ''$70,000''; and

(C) by adding at the end the following: ''Whenever the Secretary determines that any part of the amount allotted under paragraph (1) to a State for a fiscal year will not be obligated before the end of the fiscal year, the Secretary shall reallot such part to the remaining States for obligation for the fiscal year.''.

(b) ELIGIBILITY.—Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(1) in paragraph (11) by striking ''and'' at the end;

(2) in paragraph (12) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(13) shall develop an adequate emergency preparedness and management plan.''.

SEC. 4. TRANSITIONAL LIVING GRANT PROGRAM.

(a) ELIGIBILITY.—Section 322(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–2(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''indirectly'' and inserting ''by contract''; and

(B) by striking ''services'' the first place it appears and inserting ''provide, directly or indirectly, services,'';

(2) in paragraph (2), by striking ''a continuous period not to exceed 540 days, except that'' and all that follows and inserting the following: ''a continuous period not to exceed 635 days, except that a youth in a program under this part who has not reached 18 years of age on the last day of the 635-day period may, if otherwise qualified for the program, remain in the program until the earlier of the youth's 18th birthday or the 180th day after the end of the 635-day period;'';

(3) in paragraph (14), by striking ''and'' at the end;

(4) in paragraph (15), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(16) to develop an adequate emergency preparedness and management plan.''.

SEC. 5. GRANTS FOR RESEARCH EVALUATION, DEMONSTRATION, AND SERVICE PROJECTS.

Section 343 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–23) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''special consideration'' and inserting ''priority'';

(B) in paragraph (8)—

(i) by striking ''to health'' and inserting ''to quality health'';

(ii) by striking ''mental health care'' and inserting ''behavioral health care''; and

(iii) by striking ''and'' at the end;

(C) in paragraph (9), by striking the period at the end and inserting '', including access to educational and workforce programs to achieve outcomes such as decreasing high school dropout rates, increasing rates of attaining a secondary school diploma or its recognized equivalent, or increasing placement and retention in postsecondary education or advanced workforce training programs; and''; and

(D) by adding at the end the following:

''(10) providing programs, which shall include innovative programs, that assist youth in obtaining and maintaining safe and stable housing, and which may include programs with supportive services that continue after the youth complete the remainder of the programs.''; and

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

''(c) In selecting among applicants for grants under subsection (a), the Secretary shall—

''(1) give priority to applicants who have experience working with runaway or homeless youth in high-quality programs; and

''(2) ensure that the applicants selected—

''(A) represent diverse geographic regions of the United States; and

''(B) carry out projects that serve diverse populations of runaway or homeless youth.''.

SEC. 6. COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES.

Part D of the Runaway and Homeless Youth Act (42 U.S.C. 5714–21 et seq.) is amended by adding at the end the following:

''SEC. 345. PERIODIC ESTIMATE OF INCIDENCE AND PREVALENCE OF YOUTH HOMELESSNESS.

''(a) PERIODIC ESTIMATE.—Not later than 2 years after the date of enactment of the Runaway and Homeless Youth Protection Act, and at 5-year intervals thereafter, the Secretary shall prepare, and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a written report that—

''(1) contains an estimate, obtained by using the best quantitative and qualitative social science research methods available, of the incidence and prevalence of runaway and homeless individuals who are not less than 13 years of age but less than 26 years of age; and

''(2) includes with such estimate an assessment of the characteristics of such individuals.

''(b) CONTENT.—Each assessment required by subsection (a) shall include—

''(1) the results of conducting a survey of, and direct interviews with, a representative sample of runaway and homeless individuals who are not less than 13 years of age but less than 26 years of age to determine past and current—

''(A) socioeconomic characteristics of such individuals; and

''(B) barriers to such individuals obtaining—

''(i) safe, quality, and affordable housing;

''(ii) comprehensive and affordable health insurance and health services; and

''(iii) incomes, public benefits, supportive services, and connections to caring adults; and

''(2) such other information as the Secretary determines, in consultation with States, units of local government, and national nongovernmental organizations concerned with homelessness, may be useful.

''(c) IMPLEMENTATION.—If the Secretary enters into any agreement with a non-Federal entity for purposes of carrying out subsection (a), such entity shall be a nongovernmental organization, or an individual, determined by the Secretary to have appropriate expertise in quantitative and qualitative social science research.''.

SEC. 7. SEXUAL ABUSE PREVENTION PROGRAM.

Section 351(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5714–41(b)) is amended by inserting ''public and'' after ''priority to''.

SEC. 8. NATIONAL HOMELESS YOUTH AWARENESS CAMPAIGN.

The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

''PART F—NATIONAL HOMELESS YOUTH AWARENESS CAMPAIGN

''SEC. 361. NATIONAL HOMELESS YOUTH AWARENESS CAMPAIGN.

''(a) AWARENESS CAMPAIGN.—The Secretary shall, directly or through grants or contracts, conduct a national homeless youth awareness campaign (referred to in this section as the 'national awareness campaign') in accordance with this section for purposes of—

''(1) increasing awareness of individuals of all ages, socioeconomic backgrounds, and geographic locations, of the issues facing runaway and homeless youth (including youth considering running away); and

''(2) encouraging parents and guardians, educators, health care professionals, social service professionals, law enforcement officials, stakeholders, and other community members to assist youth described in paragraph (1) in averting or resolving runaway and homeless situations.

''(b) USE OF FUNDS.—Funds made available to carry out this part for the national awareness campaign may only be used for the following:

''(1) Dissemination of educational information and materials through various media, including television, radio, the Internet and related technologies, and emerging technologies.

''(2) Evaluation of the effectiveness of the activities described in paragraphs (1) and (5).

''(3) Development of partnerships with national organizations concerned with youth homelessness, community-based youth service organizations, including faith-based organizations, and government organizations to carry out the national awareness campaign.

''(4) Conducting outreach activities to stakeholders and potential stakeholders in the national awareness campaign.

''(5) In accordance with applicable laws (including regulations), development and placement in telecommunications media (including the Internet and related technologies, and emerging technologies) of public service announcements that educate the public on—

''(A) the issues facing runaway and homeless youth (including youth considering running away); and

''(B) the opportunities that adults have to assist youth described in subparagraph (A).

''(c) PROHIBITIONS.—None of the funds made available to carry out this part may be obligated or expended for any of the following:

''(1) To fund public service time that supplants pro bono public service time donated by national or local broadcasting networks, advertising agencies, or production companies for the national awareness campaign, or to fund activities that supplant pro bono work for the national awareness campaign.

''(2) To carry out partisan political purposes, or express advocacy in support of or opposition to any clearly identified candidate, clearly identified ballot initiative, or clearly identified legislative or regulatory proposal.

''(3) To fund advertising that features any elected official, person seeking elected office, cabinet level official, or other Federal employee employed pursuant to section 213.3301 or 213.3302 of title 5, Code of Federal Regulations (or any corresponding similar regulation or ruling).

''(4) To fund advertising that does not contain a primary message intended to educate the public on the issues and opportunities described in subsection (b)(5).

''(5) To fund advertising that solicits contributions from both public and private sources to support the national awareness campaign.

''(d) FINANCIAL AND PERFORMANCE ACCOUNTABILITY.—The Secretary shall cause to be performed—

''(1) audits and examinations of records, relating to the costs of the national awareness campaign, pursuant to section 304C of the Federal

Property and Administrative Services Act of 1949 (41 U.S.C. 254d); and

''(2) audits to determine whether the costs of the national awareness campaign are allowable under section 306 of such Act (41 U.S.C. 256).

''(e) REPORT.—The Secretary shall include in each report submitted under section 382(a) a summary of information about the national awareness campaign that describes—

''(1) the strategy of the national awareness campaign and whether specific objectives of the campaign were accomplished;

''(2) steps taken to ensure that the national awareness campaign operated in an effective and efficient manner consistent with the overall strategy and focus of the national awareness campaign; and

''(3) all grants or contracts entered into with a corporation, partnership, or individual working on the national awareness campaign.''.

SEC. 9. CONFORMING AMENDMENTS.

(a) REPORTS.—Section 382(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5715(a)) is amended by striking '', and E'' and inserting '', E, and F''.

(b) CONSOLIDATED REVIEW.—Section 385 of the Runaway and Homeless Youth Act (42 U.S.C. 5731a) is amended by striking '', and E'' and inserting '', E, and F''.

(c) EVALUATION AND INFORMATION.—Section 386(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5732(a)) is amended by striking '', or E'' and inserting '', E, or F''.

SEC. 10. PERFORMANCE STANDARDS.

Part G of the Runaway and Homeless Youth Act (42 U.S.C. 5714a et seq.), as redesignated by section 8, is amended by inserting after section 386 the following:

''SEC. 386A. PERFORMANCE STANDARDS.

''(a) ESTABLISHMENT OF PERFORMANCE STANDARDS.—Not later than 1 year after the date of enactment of the Runaway and Homeless Youth Protection Act, the Secretary shall issue rules that specify performance standards for public and nonprofit private entities that receive grants under sections 311, 321, and 351.

''(b) CONSULTATION.—The Secretary shall consult with representatives of public and nonprofit private entities that receive grants under this title, including statewide and regional nonprofit organizations (including combinations of such organizations) that receive grants under this title, and national nonprofit organizations concerned with youth homelessness, in developing the performance standards required by subsection (a).

''(c) IMPLEMENTATION OF PERFORMANCE STANDARDS.—The Secretary shall integrate the performance standards into the processes of the Department of Health and Human Services for grantmaking, monitoring, and evaluation for programs under parts A, B, and E.''.

SEC. 11. GOVERNMENT ACCOUNTABILITY OFFICE STUDY AND REPORT.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study, including making findings and recommendations, relating to the processes for making grants under parts A, B, and E of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq., 5714–1 et seq., 5714–41).

(2) SUBJECTS.—In particular, the Comptroller General shall study—

(A) the Secretary's written responses to and other communications with applicants who do not receive grants under part A, B, or E of such Act, to determine if the information provided in the responses and communications is conveyed clearly;

(B) the content of the grant applications for the grants, and of other associated documents (including grant announcements), to determine if the applications and other associated documents are presented in a way that gives an applicant a clear understanding of the information that the applicant must provide in each portion of an application to successfully complete it, and a clear understanding of the terminology used throughout the application and other associated documents;

(C) the peer review process for applications for the grants, including the selection of peer reviewers, the oversight of the process by staff of the Department of Health and Human Services, and the extent to which such staff make funding determinations based on the comments and scores of the peer reviewers;

(D) the typical timeframe, and the process and responsibilities of such staff, for responding to applicants for the grants, and the efforts made by such staff to communicate with the applicants when funding decisions or funding for the grants is delayed, such as when funding is delayed due to funding of a program through appropriations made under a continuing resolution; and

(E) the plans for implementation of, and the implementation of, where practicable, the technical assistance and training programs carried out under section 342 of the Runaway and Homeless Youth Act (42 U.S.C. 5714–22), and the effect of such programs on the application process for the grants.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report containing the findings and recommendations resulting from the study.

SEC. 12. DEFINITIONS.

(a) HOMELESS YOUTH.—Section 387(3) of the Runaway and Homeless Youth Act (42 U.S.C. 5732a(3)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''The'' and all that follows through ''means'' and inserting ''The term 'homeless', used with respect to a youth, means''; and

(2) in subparagraph (A)(ii), by striking ''not less than 16 years of age'' and inserting ''not less than 16 years of age and not more than 21 years of age, except that nothing in this clause shall prevent a participant who enters the program carried out under part B prior to reaching 22 years of age from being eligible for the 635-day length of stay authorized by section 322(a)(2); and''.

(b) RUNAWAY YOUTH.—Section 387 of the Runaway and Homeless Youth Act (42 U.S.C. 5732a) is amended—

(1) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; and

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

''(4) RUNAWAY YOUTH.—The term 'runaway', used with respect to a youth, means an individual who is less than 18 years of age and who absents himself or herself from home or a place of legal residence without the permission of a parent or legal guardian.''.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

Section 388(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5751(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''is authorized'' and inserting ''are authorized'';

(B) by striking ''part E) $105,000,000 for fiscal year 2004'' and inserting ''section 345 and parts E and F) $150,000,000 for fiscal year 2009''; and

(C) by striking ''2005, 2006, 2007, and 2008'' and inserting ''2010, 2011, 2012, and 2013'';

(2) in paragraph (3)—

(A) by striking ''In'' and inserting the following:

''(A) IN GENERAL.—In'';

(B) by inserting ''(other than section 345)'' before the period; and

(C) by adding at the end the following:

''(B) PERIODIC ESTIMATE.—There are authorized to be appropriated to carry out section 345 such sums as may be necessary for fiscal years 2009, 2010, 2011, 2012, and 2013.'';

(3) in paragraph (4)—

(A) by striking ''is authorized'' and inserting ''are authorized''; and

(B) by striking ''such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008'' and inserting ''$30,000,000 for fiscal year 2009 and such sums as may be necessary for fiscal years 2010, 2011, 2012, and 2013''; and

(4) by adding at the end the following:

''(5) PART F.—There are authorized to be appropriated to carry out part F $3,000,000 for fiscal year 2009 and such sums as may be necessary for fiscal years 2010, 2011, 2012, and 2013.''.

Mr. LEAHY. Mr. President, this spring, I was proud to introduce the bipartisan Runaway and Homeless Youth Protection Act of 2008 along with Senator SPECTER, the ranking Republican on the Judiciary Committee. I am pleased that finally, after four months of delay due to an objection, the Senate has acted to pass this important bill.

The Runaway and Homeless Youth Protection Act was included in the Advancing America's Priorities Act, a larger package of bills the Senate considered this summer. All of the bills contained in the Advancing America's Priorities Act should have passed by consent, but were stalled on the Senate floor by Republican objection. Like most of the measures in the bill, the Runaway and Homeless Youth Protection Act has bipartisan backing and passed the House with overwhelming support. This is legislation on which we should all agree, and I am glad the objection has been lifted. I hope the House will quickly consider this legislation and send it to the President to be signed into law.

Regrettably, the junior Senator from Oklahoma, who neither attended the Judiciary Committee hearing we had on this bill, nor objected when the legislation was reported out of the Judiciary Committee, has insisted on substantive changes to the bipartisan and bicameral consensus bill before he will lift his objection. He opposes including a public awareness campaign so that the youth who might benefit from these programs know about the services their community provides. We removed it at the request of the Senator. He has also objected to allowing youth to stay in the Transitional Living Program a few extra months in order to make sure they are able to leave the program safely. I have worked with the House to clarify language that the extended length of stay would only be used by programs in exceptional circumstances. He has also required that the authorized level of funding for these programs that help our Nation's youth be slashed. I intend to work with Senators HARKIN and SPECTER and others on the Appropriations Committee to ensure that these programs are funded at the appropriate level that should have been authorized into law. We have made further concessions on other legislation to accommodate him. I have made still more concessions to the junior Senator from Arizona, who made additional extraneous demands at the eleventh hour.

The Runaway and Homeless Youth Act is the way in which the Federal Government helps communities across the country protect some of our most vulnerable children. It was first passed the year I was elected to the Senate. We have reauthorized it several times since then, and working with Senator SPECTER and Senators on both sides of the aisle, I am glad the Senate has done so again this year. The programs authorized during the past 30 years by the RHYA have consistently proven critical to protecting and giving hope to our Nation's runaway and homeless youth.

Under the Runaway and Homeless Youth Act, every State receives a basic center grant to provide housing and crisis services for runaway and homeless youth and their families. Community-based groups around the country can also apply for funding through the Transitional Living Program and the sexual abuse prevention/street outreach grant program. The transitional living program grants are used to provide longer term housing to homeless youth between the ages of 16 and 21, and to help them become self-sufficient. The outreach grants are used to target youth susceptible to engaging in high-risk behaviors while living on the street.

Despite the changes to the bill made in response to Republican objections, our bill makes improvements to the Runaway and Homeless Youth Act reauthorizations of past years. It doubles funding for states by instituting a minimum of $200,000, which will allow states to better meet the diverse needs of their communities. This bill also requires the Department of Health and Human Services to develop performance standards for grantees. Providing program guidelines would level the playing field for bidders, ensure consistency among providers, and increase the effectiveness of the services under the Runaway and Homeless Youth Act. In addition, our legislation develops an incidence study to better estimate the number of runaway and homeless youth and to identify trends. The incidence study would provide more accurate estimates of the runaway and homeless youth population and would help lawmakers make better policy decisions and allow communities to provide better outreach.

On April 29, the Senate Judiciary Committee held a hearing to focus the Senate's attention on these problems and to identify and develop solutions to protect runaway and homeless youth. It was the first Senate hearing on these matters in more than a decade. We heard from a distinguished panel of witnesses, some of whom spoke firsthand about the significant challenges that young people face when they have nowhere to go.

Our witnesses demonstrated that young people can overcome harrowing obstacles and create new opportunities when given the chance. One witness went from living as a homeless youth in his teens to earning two Oscar nominations as a distinguished actor. Another witness is working with homeless youth at the same Vermont organization that enabled him to stop living on the streets and is on his way to great things. Our witness panel gave useful and insightful suggestions on how to improve the Runaway and Homeless Youth Act to make it more effective. We have included many of these recommendations in our bill.

The prevalence of homelessness among young people in America is shockingly high. The problem is not limited to large cities. Its impact is felt strongly in smaller communities and rural areas as well. It affects our young people directly and reverberates throughout our families and communities. That this problem continues in the richest country in the world means that we need to redouble our commitment and our efforts to safeguard our Nation's youth. We need to support the dedicated people in communities across the country who work to address these problems every day.

In my home State of Vermont, the Vermont Coalition for Runaway and Homeless Youth, the New England Network for Child, Youth, and Family Services, and Spectrum Youth and Family Services in Burlington all receive grants under these programs and have provided excellent services that provide assistance to thousands of youth.

The overwhelming need for services is not limited to any one state or community. Many transitional living programs are forced to turn away young people seeking shelter. We heard testimony of an exemplary program within blocks of our Nation's Capitol that has a waiting list as long as a year. This is unacceptable. The needs in our communities are real, and reauthorizing the law will allow these programs to expand their enormously important work.

These topics are difficult but deserve our attention. I am glad the Senate has taken an important step toward addressing these issues by passing the Runaway and Homeless Youth Protection Act today.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Leahy amendment at the desk be agreed to; the committee substitute amendment, as amended, be agreed to; the bill be read a third time and passed; the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The amendment (No. 5652) was agreed to.

(The amendment is printed in today's RECORD under ''Text of amendments.'')

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 2982), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

EXTENDING WAIVER AUTHORITY FOR THE SECRETARY OF EDUCATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6890, which was received from the House.

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

The assistant legislative clerk read as follows:

A bill (H.R. 6890) to extend the waiver authority for the Secretary of Education under section 105 of subtitle A of Title IV of division B of Public Law 109–148, relating to elementary and secondary education hurricane recovery relief, and for other purposes.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 6890) was ordered to a third reading, was read the third time, and passed.

DEFENSE PRODUCTION ACT EXTENSION AND REAUTHORIZATION OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6894, which was received from the House.

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

The assistant legislative clerk read as follows:

A bill (H.R. 6894) to extend and reauthorize the Defense Production Act of 1950, and for other purposes.

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

Mr. DODD. Mr. President, today we are acting on House-passed legislation which contains a 1-year extension of the Defense Production Act, DPA, which I hope will be swiftly approved by the Senate. While I am delighted that this extension legislation was passed by the House Tuesday night, it is crucial to remember that many of this law's authorities, last renewed in 2003, expire on September 30. We have just a few legislative days to get this done. As the United Sates continues to fight two wars and respond to various natural disasters, it is important that we not allow key provisions to expire—provisions allowing our Government

agencies to ensure that American industry meets varying demands of national emergencies. Such measures involve mandates to keep industry producing critical resources for our military and first responders in times of crisis, and initiatives for maintaining crucial investments in strategic technologies.

During the Korean war, what was then the Senate Banking & Currency Committee—the precursor to today's Committee on Banking, Housing and Urban Affairs—authored the Defense Production Act to ensure the availability of key industrial resources for the Department of Defense, DOD. Over time, the Defense Production Act has been amended to include energy supply, emergency preparedness, and critical infrastructure protections, thereby allowing civilian agencies to respond rapidly to crises such as natural disasters and terrorist attacks.

In the last several months, the Committee on Banking, Housing, and Urban Affairs received two reports mandated by law from the Government Accountability Office and Department of Homeland Security. These reports highlighted major shortfalls in the administration's application of DPA authorities. Furthermore, I have been informed that in 2004, FEMA and other Federal agencies conducted their own internal review of DPA authorities and made several recommendations to the White House's Homeland Security Council. The White House chose not to act on those recommendations, and Congress has still not been fully briefed on these findings.

In a perfect world, we would fully analyze and incorporate appropriate findings of pertinent reviews. Unfortunately, due to time constraints of the current legislative session, including our work on measures to address the crisis in our financial system, it is clear that a complete assessment now of their conclusions would be impossible. But we should not simply reauthorize this act for another 5 years. The recommendations gathered in these valuable reports should be reviewed, considered for legislation in a workable bill, and enacted into law in the near future; not 5 years from now.

Simply put, granting a 1-year extension would provide our agencies with the authorities they need in the short term, but will also maintain the expectation that in 2009 the Banking Committee and the U.S. Senate will conduct a thoughtful review of these recommendations in hearings, mark-up, and floor consideration. I look forward to working with my colleagues in the Senate, as well as in a new administration, to see to it that the DPA is modernized to address the challenges of the 21st century. In the meantime, I thank my colleagues for working with me to approve this 2009 reauthorization.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 6894) was ordered to a third reading, was read the third time, and passed.

NEED-BASED EDUCATIONAL AID ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 1777, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1777) to amend the Improving America's Schools Act of 1994 to make permanent the favorable treatment of need-based educational aid under the antitrust laws.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that a Leahy-Hatch amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5653) was agreed to, as follows:

(Purpose: To amend the Improving America's Schools Act of 1994 to extend the favorable treatment of need-based educational aid under the antitrust laws)

On page 2, strike lines 5 and 6 and insert the following: ''Section 568(d) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended by striking '2008' and inserting '2015'.''.

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

The bill (H.R. 1777), as amended, was read the third time, and passed.

WHITE MOUNTAIN APACHE TRIBE RURAL WATER SYSTEM LOAN AUTHORIZATION ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1080, S. 3128.

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

The assistant legislative clerk read as follows:

A bill (S. 3128) to direct the Secretary of the Interior to provide a loan to the White Mountain Apache Tribe for use in planning, engineering, and designing a certain water system project.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''White Mountain Apache Tribe Rural Water System Loan Authorization Act''.

SEC. 2. DEFINITIONS.

(a) MINER FLAT PROJECT.—The term ''Miner Flat Project'' means the White Mountain Apache Rural Water System, comprised of the Miner Flat Dam and associated domestic water supply components, as described in the project extension report dated February 2007.

(b) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation (or any other designee of the Secretary).

(c) TRIBE.—The term ''Tribe'' means the White Mountain Apache Tribe, a federally recognized Indian tribe organized pursuant to section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476 et seq.).

SEC. 3. MINER FLAT PROJECT LOAN.

(a) LOAN.—Subject to the availability of appropriations and the condition that the Tribe and the Secretary have executed a cooperative agreement under section 4(a), not later than 90 days after the date on which amounts are made available to carry out this section and the cooperative agreement has been executed, the Secretary shall provide to the Tribe a loan in an amount equal to $9,800,000, adjusted, as appropriate, based on ordinary fluctuations in engineering cost indices applicable to the Miner Flat Project during the period beginning on October 1, 2007, and ending on the date on which the loan is provided, as determined by the Secretary, to carry out planning, engineering, and design of the Miner Flat Project in accordance with section 4.

(b) TERMS AND CONDITIONS OF LOAN.—The loan provided under subsection (a) shall—

(1) be at a rate of interest of 0 percent; and

(2) be repaid over a term of 25 years, beginning on January 1, 2013.

(c) ADMINISTRATION.—Subject to section 4, the Secretary shall administer the planning, engineering, and design of the Miner Flat Project.

SEC. 4. PLANNING, ENGINEERING, AND DESIGN.

(a) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall offer to enter into a cooperative agreement with the Tribe for the planning, engineering, and design of the Miner Flat Project in accordance with this Act.

(2) MANDATORY PROVISIONS.—A cooperative agreement under paragraph (1) shall—

(A) specify, in a manner that is acceptable to the Secretary and the Tribe, the rights, responsibilities, and liabilities of each party to the agreement; and

(B) require that the planning, engineering, design, and construction of the Miner Flat Project be in accordance with all applicable Federal environmental laws.

(b) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Each activity for the planning, engineering, or design of the Miner Flat Project shall be subject to the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee-reported amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 3128), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

PROVIDING FUNDS FOR COMMUNITY FOOD PROJECTS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3597 introduced earlier today by Senator HARKIN.

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

The assistant legislative clerk read as follows:

A bill (S. 3597) to provide that funds allocated for community food projects for fiscal year 2008 shall remain available until September 30, 2009.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 3597) was ordered to be engrossed for a third reading, was ordered to a third reading, was read the third time, and passed.

S. 3597

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

SECTION 1. COMMUNITY FOOD PROJECTS.

(a) TECHNICAL CORRECTION.—Section 4406(a)(7) of the Food, Conservation, and Energy Act of 2008 (Public Law 110-234; 122 Stat. 1902) is amended by striking ''Food and Nutrition Act of 2008'' and inserting ''Food Stamp Act of 1977''.

(b) ALLOCATION OF FUNDS.—Funds allocated under section 25(b) of the Food Stamp Act of 1977 (7 U.S.C. 2034(b)) for fiscal year 2008 shall remain available until September 30, 2009, to fund proposals solicited in fiscal year 2008.

DRUG TRAFFICKING VESSEL INTERDICTION ACT OF 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3598 introduced earlier today by Senator INOUYE.

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

The assistant legislative clerk read as follows:

A bill (S. 3598) to amend titles 46 and 18, United States Code, with respect to the operation of submersible vessels and semi-submersible vessels without nationality.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and any statements related to the bill be printed in the RECORD.

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

The bill (S. 3598) was ordered to be engrossed for a third reading, was ordered to a third reading, was read the third time, and passed.

S. 3598

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 ''Drug Trafficking Vessel Interdiction Act of 2008''.

TITLE I—CRIMINAL PROHIBITION

SEC. 101. FINDINGS AND DECLARATIONS.

Congress finds and declares that operating or embarking in a submersible vessel or semi-submersible vessel without nationality and on an international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.

SEC. 102. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 2285. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.

''(a) OFFENSE.—Whoever knowingly operates, or attempts or conspires to operate, by any means, or embarks in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection, shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) EVIDENCE OF INTENT TO EVADE DETECTION.—For purposes of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) of title 46 may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

''(c) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section, including an attempt or conspiracy to commit such an offense.

''(d) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

''(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

''(2) flying its nation's ensign or flag; or

''(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

''(e) AFFIRMATIVE DEFENSES.—

''(1) IN GENERAL.—It is an affirmative defense to a prosecution for a violation of subsection (a), which the defendant has the burden to prove by a preponderance of the evidence, that the submersible vessel or semi-submersible vessel involved was, at the time of the offense—

''(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

''(B) classed by and designed in accordance with the rules of a classification society;

''(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

''(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

''(2) PRODUCTION OF DOCUMENTS.—The affirmative defenses provided by this subsection are proved conclusively by the production of—

''(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

''(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

''(C) government documents evidencing licensure, regulation, or registration for commerce, research, or exploration.

''(f) FEDERAL ACTIVITIES EXCEPTED.—Nothing in this section applies to lawfully authorized activities carried out by or at the direction of the United States Government.

''(g) APPLICABILITY OF OTHER PROVISIONS.—Sections 70504 and 70505 of title 46 apply to offenses under this section in the same manner as they apply to offenses under section 70503 of such title.

''(h) DEFINITIONS.—In this section, the terms 'submersible vessel', 'semi-submersible vessel', 'vessel of the United States', and 'vessel without nationality' have the meaning given those terms in section 70502 of title 46.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by inserting after the item relating to section 2284 the following:

''2285. Operation of submersible vessel or semi-submersible vessel without nationality''.

SEC. 103. SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate sentencing guidelines (including policy statements) or amend existing sentencing guidelines (including policy statements) to provide adequate penalties for persons convicted of knowingly operating by any means or embarking in any submersible vessel or semi-submersible vessel in violation of section 2285 of title 18, United States Code.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offense described in section 2285 of title 18, United States Code, and the need for deterrence to prevent such offenses;

(2) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a submersible vessel or semi-submersible vessel described in section 2285 of title 18, United States Code, to facilitate other felonies;

(B) the repeated use of a submersible vessel or semi-submersible vessel described in section 2285 of title 18, United States Code, to facilitate other felonies, including whether such use is part of an ongoing criminal organization or enterprise;

(C) whether the use of such a vessel involves a pattern of continued and flagrant violations of section 2285 of title 18, United States Code;

(D) whether the persons operating or embarking in a submersible vessel or semi-submersible vessel willfully caused, attempted to cause, or permitted the destruction or damage of such vessel or failed to heave to when directed by law enforcement officers; and

(E) circumstances for which the sentencing guidelines (and policy statements) provide sentencing enhancements;

(3) ensure reasonable consistency with other relevant directives, other sentencing guidelines and policy statements, and statutory provisions;

(4) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(5) ensure that the sentencing guidelines and policy statements adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE II—CIVIL PROHIBITION

SEC. 201. OPERATION OF SUBMERSIBLE VESSEL OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.

(a) FINDING AND DECLARATION.—Section 70501 of title 46, United States Code, is amended—

(1) by inserting ''(1)'' after ''that''; and

(2) by striking ''States.'' and inserting ''States and (2) operating or embarking in a submersible vessel or semi-submersible vessel without nationality and on an international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.''.

SEC. 202. OPERATION PROHIBITED.

(a) IN GENERAL.—Chapter 705 of title 46, United States Code, is amended by adding at the end thereof the following:

''§ 70508. Operation of submersible vessel or semi-submersible vessel without nationality

''(a) IN GENERAL.—An individual may not operate by any means or embark in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, with the intent to evade detection.

''(b) EVIDENCE OF INTENT TO EVADE DETECTION.—In any civil enforcement proceeding for a violation of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) may be considered, in the totality of the circumstances, to be prima facie evidence of intent to evade detection.

''(c) DEFENSES.—

''(1) IN GENERAL.—It is a defense in any civil enforcement proceeding for a violation of subsection (a) that the submersible vessel or semi-submersible vessel involved was, at the time of the violation—

''(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

''(B) classed by and designed in accordance with the rules of a classification society;

''(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

''(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

''(2) PRODUCTION OF DOCUMENTS.—The defenses provided by this subsection are proved conclusively by the production of—

''(A) government documents evidencing the vessel's nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

''(B) a certificate of classification issued by the vessel's classification society upon completion of relevant classification surveys and valid at the time of the offense; or

''(C) government documents evidencing licensure, regulation, or registration for research or exploration.

''(d) CIVIL PENALTY.—A person violating this section shall be liable to the United States for a civil penalty of not more than $1,000,000.''

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 705 of title 46, United States Code, is amended by inserting after the item relating to section 70507 the following:

''70508. Operation of submersible vessel or semi-submersible vessel without nationality''.

(2) Section 70504(b) of title 46, United States Code, is amended by inserting ''or 70508'' after ''70503''.

(3) Section 70505 of title 46, United States Code, is amended by striking ''this title'' and inserting ''this title, or against whom a civil enforcement proceeding is brought under section 70508,''.

SEC. 203. SUBMERSIBLE VESSEL AND SEMI-SUBMERSIBLE VESSEL DEFINED.

Section 70502 of title 46, United States Code, is amended by adding at the end thereof the following:

''(f) SEMI-SUBMERSIBLE VESSEL; SUBMERSIBLE VESSEL.—In this chapter:

''(1) SEMI-SUBMERSIBLE VESSEL.—The term 'semi-submersible vessel' means any watercraft constructed or adapted to be capable of operating with most of its hull and bulk under the surface of the water, including both manned and unmanned watercraft.

''(2) SUBMERSIBLE VESSEL.—The term 'submersible vessel' means a vessel that is capable of operating completely below the surface of the water, including both manned and unmanned watercraft.''.

EXECUTIVE SESSION

NOMINATIONS DISCHARGED AND PLACED ON THE CALENDAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Agriculture Committee be discharged of PN1824, the nomination of Mark Everett Keenum, and that the nomination be placed on the calendar.

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

Mr. DURBIN. Mr. President, I ask unanimous consent the Rules Committee be discharged from the following: PN655, the nomination of Garcia M. Hillman; PN1661, the nomination of Donetta Davidson; PN1662, the nomination of Rosemary E. Rodriguez; and PN1963, the nomination of Gineen Bresso Beach, and the nominations be placed on the Executive Calendar.

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

LAND-BASED SOURCES PROTOCOL TO THE CARTAGENA CONVENTION

THE HAGUE CONVENTION

AMENDMENT TO THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL

INTERNATIONAL CONVENTION FOR SUSPENSION OF ACTS OF NUCLEAR TERRORISM

PROTOCOLS OF 2005 TO THE CONVENTION CONCERNING THE SAFETY OF MARITIME NAVIGATION AND TO THE PROTOCOL CONCERNING THE SAFETY OF FIXED PLATFORMS ON THE CONTINENTIAL SHELF

PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF THE REPUBLIC OF ALBANIA

1998 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

2002 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

2006 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Mr. DURBIN. I ask unanimous consent the Senate consider the following treaties on the Executive Calendar, Calendar Nos. 25, 31, 34, 35, 36, 37, 38, 39, and 40, and that the treaties be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee understandings, declarations, or conditions be agreed to as applicable; that any statements be printed in the RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, that when the resolutions of ratification are voted on, the motions to reconsider be considered made and laid on the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session, all without intervening action or debate.

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

The treaties and protocol will be considered to have passed through their various parliamentary stages, up to and including the presentation of the resolutions of ratification.

Mr. DURBIN. I ask for the division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division vote has been requested.

Senators in favor of the resolutions of ratification of these treaties will rise and stand until counted.

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

TREATY DOC. 110–1: LAND-BASED SOURCES PROTOCOL TO THE CARTAGENA CONVENTION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to declarations.

The Senate advises and consents to the ratification of the Protocol Concerning Pollution from Land-Based Sources and Activities to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, with Annexes, done at Oranjestad, Aruba, on October 6, 1999 (Treaty Doc. 110–1), subject to the declaration of section 2 and the declaration of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the instrument of ratification:

In accordance with Article XVIII, the United States of America declares that, with respect to the United States of America, any new annexes to the Protocol shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Protocol is not self-executing.

TREATY DOC. 106–1A: THE HAGUE CONVENTION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Understandings and a Declaration.

The Senate advises and consents to the ratification of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, concluded on May 14, 1954 (Treaty Doc. 106–1(A)), subject to the understandings of section 2 and the declaration of section 3.

Section 2. Understandings.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) It is the understanding of the United States of America that ''special protection,'' as defined in Chapter II of the Convention, codifies customary international law in that it, first, prohibits the use of any cultural property to shield any legitimate military targets from attack and, second, allows all property to be attacked using any lawful and proportionate means, if required by military necessity and notwithstanding possible collateral damage to such property.

(2) It is the understanding of the United States of America that any decision by any military commander, military personnel, or any other person responsible for planning, authorizing, or executing military action or other activities covered by this Convention shall only be judged on the basis of that person's assessment of the information reasonably available to the person at the time the person planned, authorized, or executed the action under review, and shall not be judged on the basis of information that comes to light after the action under review was taken.

(3) It is the understanding of the United States of America that the rules established by the Convention apply only to conventional weapons, and are without prejudice to the rules of international law governing other types of weapons, including nuclear weapons.

(4) It is the understanding of the United States of America that, as is true for all civilian objects, the primary responsibility for the protection of cultural objects rests with the Party controlling that property, to ensure that it is properly identified and that it is not used for an unlawful purpose.

Section 3. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to impose sanctions on persons who commit or order to be committed a breach of the Convention, this Convention is self-executing. This Convention does not confer private rights enforceable in United States courts.

TREATY DOC. 110–6: AMENDMENT TO THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the Amendment to the Convention on the Physical Protection of Nuclear Material, adopted on July 8, 2005 (the ''Amendment'') (Treaty Doc. 110–6), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Consistent with Article 17(3) of the Convention on the Physical Protection of Nuclear Material, the United States of America declares that it does not consider itself bound by Article 17(2) of the Convention on the Physical Protection of Nuclear Material with respect to disputes concerning the interpretation or application of the Amendment.

Section 3. Understandings.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term ''armed conflict'' in Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended) does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term ''international humanitarian law'' in Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended) has the same substantive meaning as the law of war.

(3) The United States of America understands that, pursuant to Paragraph 5 of the Amendment (Article 2 of the Convention on the Physical Protection of Nuclear Material, as amended), the Convention on the Physical Protection of Nuclear Material, as amended, will not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, this Amendment is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. This Amendment does not confer private rights enforceable in United States courts.

TREATY DOC. 110–4: INTERNATIONAL CONVENTION FOR SUPPRESSION OF ACTS OF NUCLEAR TERRORISM

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the International Convention for the Suppression of Acts of Nuclear Terrorism, adopted on April 13, 2005, and signed on behalf of the United States of America on September 14, 2005 (the ''Convention'') (Treaty Doc. 110–4), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Pursuant to Article 23(2) of the Convention, the United States of America declares that it does not consider itself bound by Article 23(1) of the Convention.

Section 3. Understandings.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term ''armed conflict'' in Article 4 of the Convention does not include situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term ''international humanitarian law'' in Article 4 of the Convention has the same substantive meaning as the law of war.

(3) The United States of America understands that, pursuant to Article 4 and Article 1(6), the Convention does not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

(4) The United States of America understands that current United States law with

respect to the rights of persons in custody and persons charged with crimes fulfills the requirement in Article 12 of the Convention and, accordingly, the United States does not intend to enact new legislation to fulfill its obligations under this Article.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, this Convention is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions in the Convention, including Articles 10 and 12, confer private rights enforceable in United States courts.

TREATY DOC. 110–8: PROTOCOLS OF 2005 TO THE CONVENTION CONCERNING THE SAFETY OF MARITIME NAVIGATION AND TO THE PROTOCOL CONCERNING THE SAFETY OF FIXED PLATFORMS ON THE CONTINENTAL SHELF

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a reservation, understandings, and a declaration.

The Senate advises and consents to the ratification of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, adopted on October 14, 2005, and signed on behalf of the United States of America on February 17, 2006 (the ''2005 Fixed Platforms Protocol'') (Treaty Doc. 110–8), subject to the reservation of section 2, the understandings of section 3, and the declaration of section 4.

Section 2. Reservation.

The advice and consent of the Senate under section 1 is subject to the following reservation, which shall be included in the instrument of ratification:

Consistent with Article 16(2) of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, the United States of America declares that it does not consider itself bound by Article 16(1) of the Convention and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, with respect to disputes concerning the interpretation or application of the Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

Section 3. Understandings.

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the instrument of ratification:

(1) The United States of America understands that the term ''armed conflict'' as used in paragraph 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature.

(2) The United States of America understands that the term ''international humanitarian law,'' as used in paragraphs 1 and 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, has the same substantive meaning as the ''law of war.''

(3) The United States of America understands that, pursuant to paragraph 2 of Article 2bis of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 2005, does not apply to: (a) the military forces of a State, which are the armed forces of a State organized, trained, and equipped under its internal law for the primary purpose of national defense or security, in the exercise of their official duties; (b) civilians who direct or organize the official activities of military forces of a State; or (c) civilians acting in support of the official activities of the military forces of a State, if the civilians are under the formal command, control, and responsibility of those forces.

(4) The United States of America understands that current United States law with respect to the rights of persons in custody and persons charged with crimes fulfills the requirement in paragraph 2 of Article 10 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, and incorporated by Article 2 of the 2005 Fixed Platforms Protocol, and, accordingly, the United States does not intend to enact new legislation to fulfill its obligations under this Article.

Section 4. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

With the exception of the provisions that obligate the United States to criminalize certain offenses, make those offenses punishable by appropriate penalties, and authorize the assertion of jurisdiction over such offenses, the 2005 Fixed Platforms Protocol is self-executing. Included among the self-executing provisions are those provisions obligating the United States to treat certain offenses as extraditable offenses for purposes of bilateral extradition treaties. None of the provisions of the 2005 Fixed Platforms Protocol, including those incorporating by reference Articles 7 and 10 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 2005, confer private rights enforceable in United States courts.

TREATY DOC. 110–20: PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF THE REPUBLIC OF ALBANIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a declaration and a condition.

The Senate advises and consents to the ratification of the Protocol to the North Atlantic Treaty of 1949 on the Accession of the Republic of Albania, adopted at Brussels on July 9, 2008, and signed that day on behalf of the United States of America (the ''Protocol'') (Treaty Doc. 110–20), subject to the declaration of section 2 and the condition of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

(a) Article 10 of the North Atlantic Treaty provides that Parties may, by unanimous agreement, invite any other European State in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area to accede to the North Atlantic Treaty, and thus become a member of the North Atlantic Treaty Organization (''NATO'').

(b) The Bucharest Summit Declaration, issued by the Heads of States and Governments participating in the meeting of the North Atlantic Council in Bucharest on April 3, 2008, states that NATO welcomes Ukraine's and Georgia's Euro-Atlantic aspirations for membership in NATO. The Bucharest Summit Declaration additionally states that it was ''agreed today that these countries will become members of NATO.''

(c) The Senate declares that it is important that NATO keep its door open to all European democracies willing and able to assume the responsibilities and obligations of membership.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the following condition:

Presidential Certification

Prior to the deposit of the instrument of ratification, the President shall certify to the Senate as follows:

1. The inclusion of the Republic of Albania in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; and

2. The inclusion of the Republic of Albania in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

TREATY DOC. 110–20: PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF THE REPUBLIC OF CROATIA

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to a declaration and a condition.

The Senate advises and consents to the ratification of the Protocol to the North Atlantic Treaty of 1949 on the Accession of the Republic of Croatia, adopted at Brussels on July 9, 2008, and signed that day on behalf of the United States of America (the ''Protocol'') (Treaty Doc. 110–20), subject to the declaration of section 2 and the condition of section 3.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

(a) Article 10 of the North Atlantic Treaty provides that Parties may, by unanimous agreement, invite any other European State in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area to accede to the North Atlantic Treaty, and thus become a member of the North Atlantic Treaty Organization (''NATO'').

(b) The Bucharest Summit Declaration, issued by the Heads of States and Governments participating in the meeting of the North Atlantic Council in Bucharest on April 3, 2008, states that NATO welcomes Ukraine's and Georgia's Euro-Atlantic aspirations for membership in NATO. The Bucharest Summit Declaration additionally states that it was ''agreed today that these countries will become members of NATO.''

(c) The Senate declares that it is important that NATO keep its door open to all European democracies willing and able to assume the responsibilities and obligations of membership.

Section 3. Condition.

The advice and consent of the Senate under section 1 is subject to the following condition:

Presidential Certification

Prior to the deposit of the instrument of ratification, the President shall certify to the Senate as follows:

1. The inclusion of the Republic of Croatia in NATO will not have the effect of increasing the overall percentage share of the United States in the common budgets of NATO; and

2. The inclusion of the Republic of Croatia in NATO does not detract from the ability of the United States to meet or to fund its military requirements outside the North Atlantic area.

TREATY DOC. 108–5: 1998 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to reservations and declarations.

The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), signed by the United States at Minneapolis on November 6, 1998, as contained in the Final Acts of the Plenipotentiary Conference (Minneapolis 1998) (the ''1998 Final Acts'') (Treaty Doc. 108–5), subject to declarations and reservations Nos. 90 (second paragraph), 90 (third paragraph), 101, 102, and 111 of the 1998 Final Acts and the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

TREATY DOC. 109–11: 2002 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to reservations and declarations.

The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994) and the Plenipotentiary Conference (Minneapolis 1998), signed by the United States at Marrakesh on October 18, 2002, as contained in the Final Acts of the Plenipotentiary Conference (Marrakesh 2002) (the ''2002 Final Acts'') (Treaty Doc. 109–11), subject to declarations and reservations Nos. 70 (second paragraph), 70 (third paragraph), 71, 79, 80, and 101 of the 2002 Final Acts and the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

TREATY DOC. 110–16: 2006 AMENDMENTS TO THE CONSTITUTION AND THE CONVENTION OF THE INTERNATIONAL TELECOMMUNICATION UNION

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent subject to reservations and declarations.

The Senate advises and consents to the ratification of the amendments to the Constitution and Convention of the International Telecommunication Union (Geneva 1992), as amended by the Plenipotentiary Conference (Kyoto 1994), the Plenipotentiary Conference (Minneapolis 1998), and the Plenipotentiary Conference (Marrakesh 2002), signed by the United States at Antalya on November 24, 2006, as contained in the Final Acts of the Plenipotentiary Conference (Antalya 2006) (the ''2006 Final Acts'') (Treaty Doc. 110–16), subject to declarations and reservations Nos. 70(1)(second paragraph), 70(1)(third paragraph), 70(2), 104, and 106 of the 2006 Final Acts and the declaration of section 2.

Section 2. Declaration.

The advice and consent of the Senate under section 1 is subject to the following declaration:

This Treaty is not self-executing.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Minority Leader, pursuant to Public Law 110–183, announces the appointment of the following individual as a member of the Commission on the Abolition of the Transatlantic Slave Trade: Mark Rodgers, of Virginia.

UNANIMOUS CONSENT AGREEMENT—H.R. 2638

Mr. DURBIN. Mr. President, I ask unanimous consent that with respect to the House message on H.R. 2638, that if cloture is filed on the motion to concur in the House amendment with a technical amendment on Friday, it be as if the cloture motion was filed on Thursday, September 25, with the mandatory quorum waived; and that the cloture vote occur on Saturday, at a time to be determined.

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

ORDERS FOR FRIDAY, SEPTEMBER 26, 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. tomorrow, Friday, September 26; that following the prayer and the pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to 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.

PROGRAM

Mr. DURBIN. We have been working on an agreement to have a vote in relation to the stimulus tomorrow morning. Senators will be notified of the timing of the vote once an agreement is reached. We would like to vote in the neighborhood of around 11:30 a.m. tomorrow.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 9:22 p.m., recessed until Friday, September 26, 2008, at 9:30 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Rules and Administration was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

GRACIA M. HILLMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2009.

DONETTA DAVIDSON, OF COLORADO, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2011.

ROSEMARY E. RODRIGUEZ, OF COLORADO, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM EXPIRING DECEMBER 12, 2011.

GINEEN BRESSO BEACH, OF NEW YORK, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 12, 2009.

The Senate Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

*MARK EVERETT KEENUM, OF MISSISSIPPI, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 21, 2014.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.