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Senate

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

PRAYER

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

Let us pray.

O God of light, illumine our way. O God of hope, strengthen our resolve. O God of truth, edify our souls, that we may live today for Your glory.

May our lawmakers bring honor to You by being faithful stewards of love, grace, compassion, and patience. Use them to meet the pressing needs of our Nation and world, providing them opportunities to be Your hands and heart in these challenging times. Let them never lack the courage or the will to do Your work. May their words, thoughts, and actions reflect the content of Your character.

And, Lord, while many travel during the August recess, bless and keep them, providing Your traveling mercies.

We particularly thank You for our outgoing page class.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 3, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

UNANIMOUS CONSENT AGREEMENT

Mr. REID. Mr. President, I ask unanimous consent that prior to the vote on the judge that is scheduled, we have 1 minute of debate by the ranking member of the Judiciary Committee, Senator SPECTER, 1 minute for Senator INHOFE, and 1 minute for Dr. COBURN, the Senator from Oklahoma.

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

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF TIMOTHY D. DEGIUSTI, TO BE A UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA

The ACTING PRESIDENT pro tempore. The Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Timothy D. DeGiusti, of Oklahoma, to be a United States District Judge for the Western District of Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I yield my time to the Senators from Oklahoma.

Mr. INHOFE. Mr. President, this morning, as I do every morning, I was taking my aggressive walk around the Capitol. I walked in front of the U.S. Supreme Court, and I looked up at the eight pillars facing west, and I said audibly, ''Help is on its way,'' in the form of a young jurist from Oklahoma named Tim DeGiusti.

I pause for a moment to thank, certainly, Senator SPECTER for his help. I single out Senator LEAHY, who gave me his word a long time ago that this would happen before the August recess. I say the same thing about the majority leader, Senator REID. I thank him for his assistance.

I know my junior Senator would like to say a couple of words and will talk about the qualifications of this man. He has highest ratings in everything. He has strong support from Democrats—our Democratic Governor, and my predecessor here, David Boren, a Democrat.

On a personal note, 41 years ago, I was elected to the State house of representatives with a very bright guy named Ralph Thompson. He ended up being one of the most renowned Federal district judges in the history of Oklahoma. He and his family are watching us right now from a reunion in Ohio. I only suggest, through the Chair, that Ralph Thompson and his wife Barbara had three beautiful little girls. His daughter Elaine married Tim DeGiusti. So there is a connection there. You have a great jurist in Ralph

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

Thompson, and then you have the next generation, his son-in-law, Tim DeGiusti, whose nomination is before us now.

I am so honored to have the opportunity to call for this vote in a few minutes for Tim DeGiusti to be a Federal district court judge in Oklahoma.

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

Mr. COBURN. Mr. President, I am proud to support the nomination of Timothy DeGiusti to be a Federal judge in the Western District of Oklahoma.

Timothy brings impeccable credentials to the table and a solid respect for the rule of law.

Timothy appreciates and understands that a Federal judge's role is not to write the law from the bench but to apply the law as Congress and the President set out.

At his hearing he said it's important for judges to not wish they were legislators when deciding a statute.

At his hearing, Timothy also talked about the importance of judicial integrity and the need for judges to act fairly in court so as to not erode public confidence in the rule of law which is the bedrock of American law.

Timothy brings a unique perspective to the bench as a veteran military lawyer. His expertise in military and intelligence issues will be especially need in this ongoing war on terror.

There is support of his nomination from prominent Democrats in the State, including former U.S. Senator David Boren, current Democratic Governor Brad Henry, former Democratic Attorney General Mike Turpen, and former Democratic State Senate Majority Leader Stratton Taylor.

Mr. President, again, this is a gentleman of extreme experience, intellectual honesty, and absolute character. I am proud that he will be making decisions on the Federal bench in the Western District of Oklahoma.

Mr. LEAHY. Mr. President, the senior Senator from Oklahoma, Mr. INHOFE, has talked to me about this nominee several times. I am glad he is on the floor with me. He would corral me on the floor, in the corridors, in the Senate elevators, and everywhere else. I am glad we are going through with this nomination.

Mr. INHOFE. Mr. President, if the Senator will yield. I have talked about the Senator's cooperation. When I was elected 12 years ago, Henry Bellman, a good friend of his, said, ''Become a good friend of PAT LEAHY. He keeps his word.''

Mr. LEAHY. Mr. President, Henry Bellman was one of the finest men I have ever served with. I valued his friendship too. We traveled to Vermont and we traveled out to his home and elsewhere.

Today as we head into the August recess, the Senate considers another nomination for a lifetime appointment to the Federal bench, Timothy D. DeGiusti for the Western District of Oklahoma, a well-qualified nominee with the support of both home State Senators.

When we confirm the nomination we consider today, the Senate will have confirmed 26 nominations for lifetime appointments this year, 4 more than were confirmed in all of 2005 with a Republican chairman and Republican majority and 9 more than were confirmed during the entire 1996 session. The Judiciary Committee has reported out 31 lifetime appointments to the Federal courts since January of this year.

It is a little known fact that during the Bush Presidency, more circuit judges, more district judges and more total judges have been confirmed, in less time, while I served as Judiciary chairman than during the longer tenures of either of the two Republican chairmen working with Republican Senate majorities.

Taking into account today's confirmation, the Administrative Office of the U.S. Courts lists 49 judicial vacancies. The President has sent us only 25 nominations for these 49 remaining vacancies. Twenty-four of these remaining vacancies—almost half—have no nominee. Of the 17 vacancies deemed by the Administrative Office to be judicial emergencies, the President has yet to send us nominees for 8 of them, almost half. Of the 16 circuit court vacancies, exactly half are without a nominee. If the President had worked with the Senators from Michigan, Rhode Island, Maryland, California and New Jersey, we could be in position to make even more progress. And of the 24 vacancies without any nominee, the President has violated the timeline he set for himself at least 13 times—13 have been vacant without so much as a nominee for more than 180 days. The number of violations may in fact be much higher since the President said he would nominate within 180 days of receiving notice that there would be a vacancy or intended retirement rather than from the vacancy itself. We conservatively estimate that he also violated his own rule 11 times in connection with the nominations he has made. That would mean that with respect to the 49 vacancies, the President is out of compliance with his own rule almost half of the time.

Timothy D. DeGiusti is a partner at the law firm of Holladay, Chilton & DeGiusti, PLLC in Oklahoma City, OK. He previously served 3 years in the U.S. Army as a military prosecutor and legal adviser for the Judge Advocate General Corp. Before that he was in private practice and taught as an adjunct professor of law at the University of Oklahoma College of Law. Mr. DeGiusti graduated from the University of Oklahoma and the University of Oklahoma College of Law.

I congratulate the nominee and his family on his confirmation today.

UPDATING THE FREEDOM OF INFORMATION LAW

Mr. President, I have some good news. We are reaching an agreement that should clear the way for Senate passage of the Openness Promotes Effectiveness in Our National Government Act, the OPEN Government Act, S. 849, which is a mouthful. That means we will have a much needed update of the Freedom of Information Act.

This is comprehensive legislation which Senator CORNYN and I introduced earlier this year. A lot of people have not sat by idly while there has been obstruction on this floor. They have pushed for it and demanded it. I think of all of the editorial writers and letter writers who said: Let's do this. I will speak further if we do pass it.

Every administration, Democratic or Republican, will tell you all the things they do right. Most administrations don't want to talk about the things that don't go right. It is usually the press and public citizens, individuals, who find things out through FOIA.

Open government and transparent decisionmaking are bedrock American values. For more than four decades, FOIA has translated those great values into practice by guaranteeing access to government information. Just recently, we witnessed the effectiveness of FOIA in shedding light on the chronic abuse of National Security Letters, NSLs, at the FBI. This disclosure of government documents obtained under FOIA showed the FBI reported an intentional and willful violation of the laws governing NSLs to the President's Intelligence Oversight Board just before the 2004 election, contrary to the impression created by testimony of Attorney General Gonzales.

Although FOIA continues to demonstrate its great value in shedding light on bad government policies and abuses, this open government law is being hampered by excessive delays and lax FOIA compliance. Today, Americans who seek information under FOIA remain less likely to obtain it than during any other time in FOIA's 40-plus year history. According to the National Security Archive, an independent research institute, the oldest outstanding FOIA requests date back to 1989, before the collapse of the Soviet Union. In fact, more than a year after the President's FOIA executive order to improve agency FOIA performance, FOIA backlogs are at an all-time high. According to a recent report by the Government Accountability Office, federal agencies had 43 percent more FOIA requests pending and outstanding in 2006 than in 2002. In addition, the percentage of FOIA requestors who obtained at least some of the information that they requested from the Government declined by 31 percent in 2006, according to a study by the Coalition of Journalists for Open Government. As the first major reform to FOIA in more than a decade, the OPEN Government Act would help to reverse these troubling trends and help to begin to restore the public's trust in their government. This bill also improves transparency in the Federal Government's FOIA process by:

Restoring meaningful deadlines for agency action under FOIA;

Imposing real consequences on Federal agencies for missing FOIA's 20-day statutory deadline;

Clarifying that FOIA applies to government records held by outside private contractors;

Establishing a FOIA hotline service for all federal agencies; and

Creating a FOIA Ombudsman to provide FOIA requestors and Federal agencies with a meaningful alternative to costly litigation.

Let me also be clear about what this bill does not do. This bill does not harm or impede in any way the Government's ability to withhold or protect classified information. Classified, national security and homeland security-related information are all expressly exempt from FOIA's public disclosure mandate and this bill does nothing to alter these important exemptions. Senator CORNYN and I have been proposing an amendment to our own bill that would preserve the right of federal agencies to assert these and other FOIA exemptions, even if agencies miss the 20-day statutory deadline under FOIA.

The OPEN Government Act is cosponsored by a bipartisan group of 14 Senators, including the bill's lead Republican cosponsor, Senator CORNYN. This bill is also endorsed by more than 115 business, public interest, and news organizations from across the political and ideological spectrum, including the American Library Association, the U.S. Chamber of Commerce, OpenTheGovernment.org, Public Citizen, the Republican Liberty Caucus, the Sunshine in Government Initiative and the Vermont Press Association. I thank all of the cosponsors of this bill for their commitment to open government. I also thank the many organizations that have endorsed the OPEN Government Act for their support of this legislation.

I especially want to thank the concerned citizens who have not sat idly by while some have sought to delay and obstruct Senate consideration of this measure. Instead, knowing the importance of this measure to the American people's right to know, they have demanded action and refuse to take no for an answer. That is what led to this breakthrough and to the commitment of Senate opponents of our FOIA bill to come around.

The OPEN Government Act is a good-government bill that Democrats and Republicans, alike, can and should work together to enact. For more than 2 years, I have worked on a bipartisan basis to pass this legislation and I remain committed to work with any Senator, from either party, who is serious about restoring transparency, trust and accountability to our government. Open government should not be a Democratic issue or a Republican issue. It is an American issue and an American value.

I am glad to announce to today that with Senator CORNYN's help we have come to an understanding with Senators KYL and BENNETT that should lead to Senate passage before the August recess.

I ask unanimous consent that a recent USA Today editorial entitled, ''Our view on your right to know: Endless delays mar requests for government information,'' be printed in the RECORD.

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

[From USA Today]

OUR VIEW ON YOUR RIGHT TO KNOW: ENDLESS DELAYS MAR REQUESTS FOR GOVERNMENT INFORMATION

Federal agencies are supposed to respond to requests for information within 20 business days. In some cases, 20 years has been more like it. A sampling of pending queries:

In 1987, lawyers for the Church of Scientology asked the State Department for information about whether the department had been gathering information about the church or about ''cults.''

In 1988, steelmaker USX Corp. requested government data on the steel industry in Luxembourg.

And in 1989, the Armenian Assembly of America sought documents on the Armenian genocide that occurred more than 70 years earlier during World War I.

What these queries have in common is that they are among thousands of requests that have been sandbagged, stonewalled or lost by government agencies.

Congress passed the Freedom of Information Act in 1966 to give citizens and taxpayers access to government-held records that they've paid to have gathered. But 40 years later, scores of agencies still can't—or won't—get it right.

Compliance with the 20-day deadline is ''an exception rather than a standard practice,'' according to a report this month from the Knight Foundation and the National Security Archive watchdog group.

Twelve agencies, ranging from the Defense Department to the Environmental Protection Agency, have backlogs of 10 years or more. Only one-fifth of federal agencies are in compliance with a 10-year-old law that was supposed to put so much government information on the Internet that most FOIA requests would no longer be needed.

Long-overdue reforms that sailed through the House in March with a wide bipartisan majority have been stalled in the Senate—largely because of opposition from Sen. Jon Kyl, R-Ariz.—despite a unanimously favorable vote by the Judiciary Committee.

The ugly reality is that the freedom-of-information law has been sabotaged for years by politicians and bureaucrats trying to make it hard, if not impossible, for citizens to obtain information to which they're entitled.

The pending reforms would restore meaningful deadlines for agency action and impose serious consequences on agencies that miss those deadlines. The bill also would establish a freedom-of-information hotline to enable citizens to track the status of their requests. And it seeks to repeal a perverse incentive that encourages agencies to delay compliance with information requests until just before a court decision that is going to be favorable to the requester.

Of the more than 500,000 freedom-of-information requests filed every year, over 90% are from private citizens, businesses or state and local agencies seeking information that's important to them and that in most cases they are entitled to.

Critics of the legislation object to getting tough on agencies that flout the law and claim that some of the proposed reforms would force the disclosure of sensitive information. If so, these are issues that should be thrashed out in Congress, not used as a club to stall consideration of this long-overdue legislation. The public's right to know is too important to remain on hold.

The ACTING PRESIDENT pro tempore. All time has expired.

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

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

The question is, Will the Senate advise and consent to the nomination of Timothy D. DeGiusti, of Oklahoma, to be a United States District Court Judge for the Western District of Oklahoma?

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Washington (Mrs. MURRAY) are necessarily absent.

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

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 308 Ex.]

YEAS—96

Akaka	Domenici	McCaskill
Alexander	Dorgan	McConnell
Allard	Durbin	Menendez
Barrasso	Ensign	Mikulski
Baucus	Enzi	Murkowski
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Graham	Obama
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brown	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bunning	Hutchison	Salazar
Burr	Inhofe	Sanders
Byrd	Inouye	Schumer
Cantwell	Isakson	Sessions
Cardin	Kennedy	Shelby
Carper	Kerry	Smith
Casey	Klobuchar	Snowe
Chambliss	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Sununu
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Cornyn	Lincoln	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dole	McCain	Wyden

NOT VOTING—4

Clinton	Johnson
Dodd	Murray

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is laid upon the table, and the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak therein for a period of up to 10 minutes each.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

DRUG ABUSE

Mr. GRASSLEY. Mr. President, I express my deep concern about the developing trends in drug abuse among our kids. As cochairman of the Senate Caucus on International Narcotics Control, I am often confronted with reports about the latest drug trends, but recently I have become more alarmed with what these reports contain. Drug dealers are beginning to market their deadly substances to an increasingly younger crowd so they can become hooked at a younger age.

Young people are the most at-risk populations we have in drug abuse, which is why it is disturbing to see highly addictive drugs such as meth, heroin, even prescription pain killers, antidepressants, and steroids marketed and distributed in new ways—with an emphasis upon new ways—to get a greater number of very young people, particularly elementary children, addicted. I want Congress and the American people to know what is going on with our kids and what we need to do to stop these very dangerous trends.

We have things such as candy-flavored methamphetamine. It is one of the biggest and latest gimmicks that drug dealers use to lure our kids into addiction. Flavors such as strawberry, known as ''Strawberry Quick,'' and chocolate are clearly being used to make methamphetamine seem less harmful and more appealing. This type of meth is also being marketed in smaller amounts, making it cheaper—because money is an issue—and, hence, more accessible to children. At least eight States have reported cases of candy-flavored meth, and many law enforcement officials are expecting Strawberry Quick to infiltrate their States in the near future.

What is even more disturbing is that many kids may not realize they are using a deadly substance. In fact, that is the motivation behind the drug dealers and distributors. According to my colleague Senator FEINSTEIN, some kids reported that they thought Strawberry Quick was an energy drink and were misled by drug dealers into trying meth for the first time.

Methamphetamine abuse has reached epidemic proportions, and the fact that drug dealers are trying to get children addicted at such a young age underscores the importance of taking quick action to eliminate this danger. That is why I joined my colleague Senator FEINSTEIN in introducing the Saving Kids From Dangerous Drugs Act. This legislation will double the Federal criminal penalties for drug dealers who flavor or disguise illegal drugs to make them more appealing to people under age 21, and it will triple the penalties for repeat offenders. I hope my colleagues will take a look at this piece of legislation and join Senator FEINSTEIN and me in passing this legislation soon, because we have to end the practice of purposefully altering illegal drugs to make them more appealing to young people in order to get more people hooked at a very early age.

The ongoing revelations of widespread steroid abuse in professional sports, along with the recent suicide of World Wrestling Entertainment superstar Chris Benoit, highlight a disturbing trend in sports and the entertainment world, and it has a lasting impact upon our kids. It is alleged that Benoit killed his wife and 7-year-old son in what is commonly called a ''roid rage,'' which is caused by a chemical imbalance in the brain brought on by steroid abuse. If this is proven true, it will be yet another tragic tale of the destructive nature of steroids.

What is even more tragic is the fact that steroid abuse among high schoolers has been rising. The 2006 Monitoring the Future Survey, a study done annually to monitor drug abuse among middle and senior high school students, shows that the percentage of 12th graders who have admitted trying steroids has increased dramatically. Kids look up to these athletes and performers as role models. We know that. When they see their heroes using these terrible substances, they get the impression that it is okay to use steroids.

Steroids are also marketed to kids. Students who participate in sports are facing enormous pressure to perform at high levels, and we are seeing more and more teens turn to steroids to gain an athletic advantage. You can find Web sites encouraging teens to buy substances called DHEA, which has been declared a steroid by the U.S. Anti-Doping Agency, as a new way to bulk up. The major sports leagues, with the exception of Major League Baseball, have banned DHEA, even though it remains legal in this country. Though DHEA is used as a legitimate supplement for thousands of people, teens are using it as an alternative to illegal steroids.

I introduced a bill earlier this year that would reinstate the ban that was imposed on DHEA in the 1980s, but I think we can find a way to keep minors from obtaining this substance while allowing adults to use the drug legitimately. GNC, the world's leading dietary supplement provider, has a policy not to sell DHEA to anyone under 18, and for good reason. We need to pass that legislation as soon as we can.

We should also take note of one of the fastest emerging drug trends among kids today—the abuse of prescription drugs. Most people don't even realize that their medicine cabinets can contain drugs just as powerful, just as addictive as meth and heroin. Because they are prescribed by a doctor, and millions of people use them, kids think anti-anxiety drugs such as Xanax and pain killers such as Vicodin and OxyContin are harmless. Several examples of abuse occur every day when kids come home from school and take a pill to relax. But eventually one pill is not enough to make them feel better. Soon these kids take more pills and try different mixtures until they can obtain a sufficient high, and that is often with deadly results.

What is so troubling about this is a significant number of teens are experimenting with prescription drugs. According to a 2005 study conducted by the Partnership for a Drug-Free America, one in five teens has admitted using pain killers to get high, and the organization reports it is even getting worse. The 2006 Monitoring the Future Survey shows that the abuse of prescription drugs has doubled since 2002. Access to these drugs is widespread. Not only can teens obtain these drugs from home or in school, they can also get them on line and through ''pharm parties.''

Law enforcement officials have increasingly broken up pharm parties where teens grab prescription drugs from home and pass them around to friends. These drugs are often pooled in large bowls and young people take a pill or two, but they have no idea what pill they are taking. There are hundreds of Internet video clips where teens appear strung out on pills and alcohol as a result of pharm parties. We need to do a better job as parents and legislators to educate and prevent these fast-growing trends from reaching epidemic proportions. We have to educate the public about the proper ways to dispose of old medicines, and we need to help law enforcement deal with the large amount of illegal purchases at online pharmacies.

Another sad trend is taking hold in Dallas, TX, where earlier this summer a 17-year-old high school student became the 23rd victim of a drug called ''cheese.'' ''Cheese heroin'' is a mixture of black tar heroin and Tylenol PM that is usually smoked or snorted and often very deadly. Because it resembles actual cheese and can be purchased for as little as $2 a hit, more kids in the Dallas area have been trying the new drug with terrible results. Though cheese heroin has only been seen in the Dallas area, don't think for a second it is going to stay in the Dallas area. Cheese heroin is cheap and being marketed solely to children.

Law enforcement officials will be the first to tell you that the new drugs tend to emerge in the larger cities and then move out to the suburbs. We should all be concerned about the drug trend in Dallas, because the sooner we can stem it, the better we can prevent it from spreading across the country.

The good news is that the people in the Dallas community are not taking this new drug lightly. We have school

officials and police who have been holding assemblies, lectures, PTA meetings, and classroom discussions to get the word out about cheese heroin.

A public service announcement, made in Dallas by local students, is currently airing throughout the area, and a hotline number has been taking a large number of calls for those seeking assistance to keep their loved ones from succumbing to this cheese heroin. Hopefully, their efforts will stop cheese in its tracks and maybe protect the rest of us around the country.

The Greater Dallas Council on Alcohol and Drug Abuse established a task force that is responsible for this effort. The key to this task force's success is that it incorporates all sectors of the Dallas community. Engaging and involving all sectors of our local communities is one of the best solutions to keeping our children from abusing drugs. That is why I formed, about 10 years ago, an organization called the Face It Together Coalition—we call it FIT for short—in my effort to combat drug abuse in my own State of Iowa. My goal with Face It Together is to bring to the same table parents, educators, businesses, religious leaders, law enforcement officials, health care providers, youth groups, and members of the media to promote new ways of thinking about how to reach and educate Iowans about the dangers of drug abuse. With everyone working together, we will make a difference in our communities. Moreover, together we can build healthy children, healthy families, healthy communities, and a healthy future.

In closing, I believe we have a moral obligation to ensure that our young people have a chance to grow up without being accosted by drug dealers at every turn, and particularly when they are in elementary school. We need as a country to create a strong moral context to help our kids know how to make the right choices. Research has shown time and again that if you can keep a child drug free until the age of 20, chances are very slim that they will ever try or become addicted. That is the task we face. We owe it to ourselves and the future of our country to protect our kids from drugs.

Mr. President, I yield the floor

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, consistent with our policy of going back and forth across the aisle, I ask unanimous consent following the remarks of the Senator from Ohio, that I be recognized for up to 10 minutes and that I be followed by the junior Senator from Montana.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Ohio is recognized.

PATRIOT CORPORATIONS

Mr. BROWN. Mr. President, I thank the Senator from Iowa for his leadership on drug abuse issues that he has shown for so long in this institution. We are all appreciative, in Ohio and Iowa and Oklahoma and everywhere else in this country.

We have heard a litany of stories in the last year or so about the steady stream of dangerous imports, especially from China. We have seen contaminated seafood, we have seen defective tires from China, we have seen dangerous ingredients in toothpaste and vitamins and pet food. In the last 24 hours, we have seen a continued problem with a huge number of toys being recalled that were painted with lead-based paint. Lead paint has been abandoned for almost three decades in this country. We know that lead in paint is a potentially terrible thing for children in terms of the development of their brain, especially for young children.

In USA Today this week is an article that sums up what we have allowed to happen, and why this is no surprise, as we have built this trade relationship with China. I would like to read a couple of paragraphs. We went from barely a $10 billion trade deficit with China in 1992, the year I ran for the House of Representatives, which has grown by a factor of almost 25, to $250 billion today. At the same time we were buying so much from China, we understood China is a country with no real rules, no environmental laws that are enforced well, few food safety, toy safety, worker safety rules and regulations. As a result, it should come as no shock to Americans that so many of these products imported from China are defective or dangerous. Let me read this:

> Nearly all the recent alarms raised about Chinese products point fingers solely at the Chinese, neglecting entirely how China's success as an exporter is, in large part, the product of roughly a trillion dollars of foreign investment and limitless expertise that floods into the country in order to escape some standard or other at home.
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> First, of course, are labor standards. Chinese factory workers earn roughly 65 cents an hour, about 1/40 what their American, Western European and Japanese counterparts do. Export companies—and the long chain of companies that supply them—commonly save money by subjecting [Chinese] workers to cramped dorms, long work weeks and often brutal shop bosses, which would be utterly illegal in the United States workplaces.

American business knows what it is doing, as it has offshored its jobs to China and offshored so many American jobs to China, so much of its work to China. Unfortunately, so much of what has happened is due to trade law and tax law. In essence, we are encouraging our businesses to outsource because of the incentives we provided them in the rules that have been written by the global economy, by U.S. trade law, by tax law. We can continue that or we have a choice. We can do something very different. What we offer this week is very different.

Congresswoman SCHAKOWSKY in the House, with Congresswoman SUTTON from Ohio and several other Members of Congress, TIM RYAN, also from Ohio and in the Senate, Senators DURBIN and OBAMA from Illinois, are offering legislation to set up what we call Patriot Corporations. Those are companies that play by the rules, they hire American workers, do most of their production in the United States, they pay their taxes. As I said, they do most of their production in the United States. They provide pensions and they provide health care for their workers. Those companies that do that should be rewarded. We will designate them ''Patriot Corporations.'' They will get a lower tax rate and they also will have a better opportunity to get Government contracts.

Instead of going the way we have gone; that is, giving all kinds of incentives for American corporations to outsource jobs, giving all kinds of incentives for those companies to move overseas and avoid taxes—instead of allowing that, we, instead, should offer to American companies that play by the rules, those companies, again, that provide decent health care, pensions for their workers, do their manufacturing and work in the United States—we should reward them with the designation of ''Patriot Corporation.'' Those companies that are loyal to their workers, loyal to their communities and loyal to their Nation should be rewarded. We should be loyal to them.

That is the choice we face, continuing this outsourcing tax and trade policy that costs us jobs, and we end up bringing in all kinds of unsafe products—whether they are food products at our breakfast table, whether they are toys that can potentially hurt our children. We have that choice; we either continue this policy or we designate corporations that play by the rules as Patriot Corporations.

As I said, if they are loyal to their workers and loyal to their communities and loyal to our Nation, we as a government should be loyal to them and treat them accordingly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

JUDGE TIMOTHY D. DEGIUSTI

Mr. INHOFE. Mr. President, this morning we did a great thing in the confirmation of Tim DeGiusti to the Federal court. Understandably, we are short of time this morning because of what is happening at the White House, but let me finalize a couple of ideas and some comments I was going to make.

First, when you have someone who has the highest rating, whether it is from Martin Dale Hubbell or the American Bar Association, which this candidate did and does, and he also as a military lawyer is familiar with courts-martial procedures—there are a lot of people out there with these qualifications. This individual goes far beyond that. It is interesting that

while he is a Republican, our Democratic Governor in Oklahoma, Gov. Brad Henry, is a very strong supporter of this now-confirmed nominee. Also, my predecessor, David Boren, who is now President of the University of Oklahoma, was a very strong supporter of this individual. I quoted him a few times during this process, as to how outstanding this candidate is.

I would like to share an experience I had 41 years ago. A man named Ralph Thompson, who is currently a senior status Federal judge in Oklahoma in the same Western District in which his son-in-law has been confirmed this morning, and I, and another person named David Boren, 41 years ago, were elected to the Oklahoma House of Representatives. I remember it so well because in February of 1967, 40 years ago this year, we all three came to Washington, DC, for the first time. That is, State legislators Ralph Thompson, Dave Boren, and of course myself. David Boren's father was a Congressman so he had a pretty good entree into the Capitol. I remember so well the three of us were walking around the Capitol at night—my first time ever being in the Capitol area of Washington. I remember, after walking through Statuary Hall and all these great features we have in our Capitol, that we kind of professed to each other, we decided one day—Ralph Thompson and David Boren and I—we said we would like to be Members of the Congress, either in the House or in the Senate. But Ralph Thompson said: Or a judge in the U.S. district court.

As it turned out, David Boren was a Member of the Senate; I am a Member of the Senate; and Ralph Thompson became—I believe he will go down in history as maybe being the outstanding Federal district judge in the history of Oklahoma. I have heard so many people talk about that.

I knew Ralph so well at that time—keep in mind, this is 40 years ago—and his beautiful wife Barbara, whom I might add has been Mother of the Year and received every possible honor you could have. Lisa, Maria and Elaine—they cranked out three little girls, and Elaine was the girl who later married Timothy DeGiusti. Get the connection? You have a great judge and then you have a son-in-law who is going into the same Western District of Oklahoma to replace him. It is an unusual situation. But this is one of these wonderful things that can happen in this country of ours. I am so happy this is behind us now and it happened prior to the August recess.

AMERICA'S INFRASTRUCTURE

Mr. INHOFE. Mr. President, let me mention something else I think is critical. I have heard ugly rumors that the President of the United States might end up vetoing what we call the WRDA bill, the Water Resources Development Act. Let me say I don't understand. I am coming from a conservative perspective. I am ranked by the American Conservative Union, No. 1 out of 100 most conservative Member. Yet I am saying to you there are two things we ought to be spending money on in this country. One is national defense and the other is infrastructure.

We have a crisis in our infrastructure. The big bill on transportation infrastructure we passed a year ago is going to do nothing more than maintain what we have now, and it is anticipated in 20 years we will increase our traffic by 50 percent. What are we going to do?

The same thing is true with the Water Resources Development Act. We have not had a reauthorization in 7 years. It should happen every other year.

When you say I don't care if this thing is $10 billion or $20 billion, the amount is not significant because it is not spending money, it is authorizing. If we authorize something—hopefully, we will pass this bill today. If we authorize something, it may never be appropriated or it may be appropriated 10 years down the road. So it does not have any remote effect on the budget today.

I think it is dishonest for people to say this is somehow a spending bill and therefore we should vote against it. That is not true at all. I have the history of this body right here in my hand, and I have given several presentations on this recently. I say to my friend from Montana, who is new in this Chamber, this discussion has been going on between appropriators and authorizers since 1816.

In 1867, they realized they needed to segregate the functions of authorization and appropriations so they established the appropriators, the Appropriations Committee. That was a good thing. But what happened on that, which has been the case for a long time, the appropriators slowly took over a little bit at a time so they ended up authorizing their own appropriations. That is what we don't want.

Let me give an example. In the Senate Armed Services Committee, on which I am honored to sit, we go through all types of items, such as missile defense, as an example. We will have the boost phase and the midcourse phase and the terminal phase and we will have maybe two systems on each one. They are not redundant, but there are many people who say: Wait a minute. Maybe we should do away with that system because we can save this much money.

But take the midcourse. We had the Aegis System and then we had the THAAD system in the terminal phase. These are not redundant because they take care of an incoming missile from different areas with different technologies. You would not know that if you are just an appropriator because you don't have the staff to go in and study and get into the details. But we authorize, in the Senate Armed Services Committee, because we do have that expertise.

I say the same thing is true in my other committee that I used to chair. It was the Environment and Public Works Committee. As it applies to this particular bill, the WRDA bill—we have a set of criteria and evaluated equally all these projects. There will be many projects that have been authorized that I will come on the floor and oppose vigorously when appropriations time comes. But at least we will know they have gone through a process and they meet certain criteria. That is what is important. If you take that away, that is the first line of defense, doing away with superfluous types of earmarking.

This is the only part of that system that offers discipline in the whole appropriations process. That is what this is all about. That is why the WRDA bill is so significant. Yet people who are liberal, conservatives, Democrats, Republicans who come together and realize we have an infrastructure in this country that has been sadly neglected, and we are going to have to do something about it, our opportunity will be today and I hope we can do the responsible thing and pass it.

Then, during the August recess, you are going to hear this person, who is rated the most conservative Member of this body, out talking all over the Nation why this is the conservative approach to logically authorize these projects and then determine which ones are worthwhile.

At least we know these have met a certain criteria.

Mrs. BOXER. Would the Senator yield?

Mr. INHOFE. I will yield to the Senator.

Mrs. BOXER. I am so pleased that my ranking member, Senator INHOFE, the distinguished ranking member—and was the distinguished chair of the EPW Committee—has taken to the floor to state the case.

You know, we fight so much, debate so much about so many issues, but this is one, I would say to my friend, where we have come together because we recognize that to have a great country, you have to have infrastructure that is capable, that is going to meet the needs of our people.

I would say to my friend, is it not true that even though you and I might not agree with every single project—as my friend pointed out, this is the authorizing bill, and we did have criteria here. We did work with Members. I would say to my friend, isn't it true that we were the first committee that actually followed the ethics rules that were not even law? We filled out our conflict of interest forms, we presented the bill, and this bill was 7 years in the making.

I just want to say to my friend, when he goes home and when he speaks about this, does he expect to have a good, receptive audience? I think my friend will. As I go to California, I am going to do the same thing.

Many people will call us the odd couple because we do not agree on everything. But on this one, is it not true that we see eye to eye?

Mr. INHOFE. It is. Reclaiming my time, I think you are being very generous when you say we don't always agree on every issue. In fact, there are no two people who probably disagree more. That tells you something. That tells you we have to do this. This is something this country cannot do without.

Let me give you an example. I spent several years as the mayor of a major city, Tulsa, OK. The greatest problem we had was not crime in the streets, it was not prostitution, it was unfunded mandates. Now, what we do in this is go back to some of these small communities and say: We have mandated that in your drinking water system, your wastewater system, you do these things. And we should be responsible for helping you to comply with these mandates. It is very important.

There is a group called Citizens Against Government Waste. I have right here—and I am going to submit this as part of the RECORD. For 16 years prior to right now, they have identified 76,000 projects they thought were—that fall into this category of being earmarks.

Do you know the interesting thing about this, I ask my friend from California, Senator BOXER. It is interesting that all of these projects, with very few exceptions, were not authorized.

Now, if you look at what the Congressional Research Service comes up with, around 115,000, those include the ones that were authorized. So that tells you where the problem is. The problem is not in projects that were authorized, it is in projects that are not authorized. That is why we are doing the responsible thing today. I am hoping there is no one on either side who will hold up this bill because we have to keep moving with it before the recess.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Before I get into my remarks, I thank the Senator from Oklahoma and the Senator from California for the leadership they have shown on the WRDA bill.

I couldn't agree more; infrastructure is critically important to this country. Infrastructure that revolves around our water resources may be the most important infrastructure we have. And to invest in that is truly a good investment that benefits our kids and grandkids and generations thereafter.

So thank you both for your work on this bill and, hopefully, it can be passed with a good, healthy vote coming out of this body.

WILDFIRE SUPPRESSION

Mr. TESTER. Mr. President, I rise to share some news from my home State. I am anxiously following the wildfires burning across Montana. Over the last few weeks, tens of thousands of acres of the Treasure State have burned. In fact, the top four fires in the West are burning in Montana. Hundreds of folks have been evacuated from their homes. Interestingly enough, today, August 3rd, is traditionally only the third day of the wildfire season. Times are changing.

This past weekend I had the opportunity to visit the front lines of two Montana wildfires, which tell two different fire policy stories. One thing they have clearly got in common: fine, hardworking men and women toughing it out in grueling conditions to protect each other and the public from harm's way. In my State, we are also relying on the hardworking folks in the Montana National Guard. As of today, about 130 guardsmen and women have been called to help fight Montana's fires. Some of these folks cancelled summer plans to answer the call to help. They are working alongside other firefighters to do dangerous, hot, dirty work to protect Montana's people and property.

To all wildland firefighters across this country, I say thank you. We owe them all respect and gratitude. We also owe them policies that will best benefit the landscape they are working so hard to protect.

The two fires I visited both started the same week, in late June. That is really early for Montana. Both are burning in the Bob Marshall Wilderness, a spectacular place where the Rocky Mountains spill onto the plains. The Ahorn fire was 15,000 acres when I visited. It is now over 40,000 acres, burning 30 miles west of the ranching and farming community of Augusta.

The Forest Service is concerned because the Ahorn fire is big and unwieldy. It is burning near a ''fire exclusion'' area, an area that the Forest Service has not allowed fire to burn over the years in order to protect seasonal cabins on private land east near the forest boundary. As a result of the fuels that built up over the years due to suppressing fire, the Ahorn fire is going to do pretty much what the fire wants to do. The Forest Service threw $1 million at it when it first took off, and that ''didn't make a dent,'' according to the fire officials. The agency says it will not be successful in controlling the perimeter of the fire, though it probably will be successful at protecting those cabins.

This has nothing to do with the agency's abilities. It has everything to do with fires that burn hotter and harder now because of a hotter climate and denser forests. To date, the Ahorn fire has cost nearly $5 million.

Last Saturday, I also got a chance to see the Fool Creek fire. That fire was 6,200 acres when I saw it. Today it is about 22,000 acres. The Fool Creek fire is burning west of Choteau, another ranching and farming community. The Forest Service has been managing the Fool Creek fire as a ''Wildland Fire Use For Resource Benefit,'' which means fire bosses have been mostly allowing it to burn for the benefit of the forest. So far, it has been a lot more manageable because it is moving in and around lands that burned in 1988 and in 2000. It is still hot and dry out there and the fire made a big run yesterday, but all told, the fire has been easier to manage than Ahorn. To date, the Fool Creek fire has cost $1.3 million. That is four times less than the cost of fighting the Ahorn fire, with similar outcomes.

It is not very popular to tell the American people that the Forest Service is letting the woods burn. But what we have learned in the last 20 years is: sometimes, it is the right thing to do.

We have another problem in my home State, and that's the holdover from longstanding fights on how to manage our forests. We will never get back to the timber harvest levels of the 1970s, nor should we. But the pendulum has swung too far, and now we are too often fighting in the courts about cutting down trees. Quite frankly, we don't have enough people working out in the woods. That is a problem economically and ecologically. Throw in climate change, thousands of acres of dead, dry beetle-infested trees, and lots of new houses popping up on the edges of our national forests, and we have a perfect storm brewing.

I don't think it is a coincidence that, with all the fuel buildup in our forests and the hottest summer on record, we're in the middle of a whopper of a fire season. Climatologists tell me that this is becoming the new norm. This is what we can continue to expect. Which means we have to get even smarter about when to fight wildfire, and where, and how best to stretch every dollar spent on battling them. And we have to get serious about supporting the Forest Service as it reduces fuels in the forests.

With the Forest Service spending 45 percent of its budget on fire suppression, it barely has the time or the resources to restore our forests to health. With firefighting costs predicted to go even higher, creating a trust fund for fire management makes a great deal of sense to me. It is something we have to do in order to ensure that funds will be available to do the work of restoring health to our forests. Because when we restore our forests, we will make them more resilient to fire. This is something we have to do, and we have to do it fast, especially around our Western towns and communities.

This issue won't go away when fire season comes to an end. The conversation will continue with my colleagues here in Washington and with all folks in. Montana. We'll be talking about fire and forest health and the opportunities they provide us. They are connected, and they are connected to Montana's well-being and economy.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, while the Senator from Montana is still on the Senate floor, let me, first of all, thank

him for his comments, to which I subscribe. We have a problem throughout the Western United States with forest fires, not easily understood by those who don't experience the kind of hot, dry conditions we do in the summer with our forests.

People don't think there are forests in my State of Arizona. There are. In fact, about 5 years ago, we had a fire which burned an area—and this is big Ponderosa Pine country—burned an area almost the size of the State of Rhode Island.

Now, in Arizona and Montana, you can do that. But just think about that if it were in your State. One of the problems is, we have found that the Healthy Forest Act that we passed about 3 years ago, which was designed to limit litigation, has not done as good a job as we had hoped.

I think we need to revisit that in addition to providing more funding. I will conclude this point by saying that one of the best summers of my life was spent in the State of Montana in Glacier National Park helping to put out forest fires in that beautiful place.

I hope all of us can join together in an appropriate way to advance the cause about which the Senator from Montana was speaking.

Mr. TESTER. I thank the Senator from Arizona. I think communication and trust is critical if we are going to address the issues in our forests today. I think if we can develop good communication with all parties involved, we will help move our forests to a healthier level.

I thank the Senator for his comments.

FISA

Mr. KYL. Mr. President, I want to speak briefly to the issue, which, frankly, is keeping us in session right now, and explain a little bit about what is happening. Everyone in this body understands and agrees that we have an emergency on our hands that deals with our intelligence collection, and we need to address that emergency legislatively.

But there is a disagreement on exactly how to do that. We must resolve that disagreement before we leave here. We will be taking a month back in our home States visiting with constituents. When we come back we will be right on the anniversary of 9/11. There are ways that we can prevent another 9/11 by good intelligence collection as to warnings that might tell us what we need to do to prevent such an attack, but we cannot do that the way the law is currently written.

Obviously, this debate cannot get into a great deal of detail. But, suffice it to say, when the law relating to intelligence collection was written, it was written with a different kind of technology in mind. Technology has evolved over the years. In fact, it has evolved quite rapidly, and it is a simple fact that today's law does not match today's technology. It does not permit the kind of intelligence collection that we can and should be doing.

Without, again, getting into details as to how much collection is being lost, it is fair to say that a significant amount, a significant percentage of intelligence that we could be collecting, we are not collecting, simply because of what is, in effect, an old-fashioned law, a law that can be changed, should be changed.

The kind of collection we are talking about is precisely the kind of information we need that can give us warning of an impending attack. I think it is also fair to say, without getting into detail, that at this time we are seeing increasing evidence of efforts on the part of our enemies—I am speaking specifically of groups such as al-Qaida—to find a way to attack the American homeland.

Given this increased effort on their part—and I would also suggest capability on their part—given that we know what they intend to do, and given that we know there is a great deal of intelligence out there we are not collecting simply because of an outmoded law, it is incumbent upon us to act and to act now.

We cannot leave to go back to our home States for a month without resolving this issue because of the nature of the threat and the fact that an entire month will have elapsed not being able to collect information that we deem vital to be able to give us the kind of warning that we need.

Now, there have been negotiations going on, not only in the Intelligence Committee but with leadership and, primarily Admiral McConnell, who is the Director of National Intelligence, who has brought this matter to our attention. But those negotiations have not resulted in an agreement we can pass in the House and the Senate before we leave. Time is running out. We will wait as long as it takes to resolve this problem. Anything less would be a dereliction of our duty.

I will just conclude by saying this: Prior to 9/11, Senator FEINSTEIN and I, as the chairman and ranking member of the Terrorism Subcommittee of the Judiciary Committee, predicted there would be a massive kind of attack on the United States by terrorists if we did not make substantial changes in the law, on which we had held hearings. We had put legislation in the hopper, and I urged our colleagues to take action on the legislation. They did not do so.

Two days after 9/11, we stood on the floor of the Senate and finally got agreement on some of these elements of legislation, some of which became part of the PATRIOT Act, some of which were part of the Tools to Fight Terrorism Act.

Let's do not let that happen again. The warnings are there. We have to be prepared to deal with them. We cannot leave without changing the law to fit the technology that currently exists, and we will not permit this situation to erode to the point where we have to accept something that is not adequate or we have delay in getting the job done before we leave.

Mr. MCCONNELL. Mr. President, will the Senator from Arizona yield for a question?

Mr. KYL. Mr. President, I am happy to yield.

Mr. MCCONNELL. Isn't it the view of the Senator from Arizona—given the wide respect across this body and in the House as well that Admiral McConnell enjoys—that we should accept his judgment as to what is needed to solve this problem? Is he not, in the view of the Senator from Arizona, the expert on this subject? And is it not clear to everyone that his primary motivation is not to get into a political fight but to protect the homeland from another attack?

Mr. KYL. Mr. President, as usual, the minority leader has made an extraordinarily important point.

Admiral McConnell enjoys the confidence, I am sure, of every one of the Members of this body. When he briefed all of us about the problem, I did not see a dissenting voice in the classified briefing about the fact that we had to quickly do something to solve this problem.

I think everyone recognizes that he not only has the expertise but the motivation—only one motivation—to protect the American people. I do not think there is a political bone in his body. As a result, for anybody here in the Congress to play politics with the issue, to not accept the judgment of a man who is so widely respected and so properly motivated in this regard, would not only be a dereliction of duty but would, frankly, set up a potential threat to the United States from which we might not recover.

What I might do is just close my remarks and turn the floor over to the minority leader. I also know the Senator from New Mexico wants to make some comments. But perhaps he would allow the leader to make some comments.

I just want to make this point. Winston Churchill said after World War II that no war could have been more easily prevented. We all understand what he was talking about. The threat was there. The people who were going to cause the problem—Adolf Hitler, Nazi Germany—were clear in their intentions, but people did not act on the knowledge they had.

Mr. President, I submit the same thing is true here. If there is, God forbid, an attack on our homeland, I cannot imagine something that could have been more easily prevented by the kind of change we can make in this body today to ensure that the law that governs this intelligence collection keeps up with the technology.

It is up to us to take the good judgment of people such as Admiral McConnell, as the minority leader has said, and move on with this and not allow a

situation to develop where we would leave for the month of August not having solved this important problem.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, the solution to this problem is at the desk. The senior Senator from Missouri, the vice chair of the Intelligence Committee, and I placed a bill on the calendar earlier this week that Admiral McConnell has certified would give him and our intelligence community the ability to protect the homeland.

As Senator BOND and I pointed out earlier this week, this measure which is at the desk, which could be taken up and passed by the Senate at any time, would give the intelligence community what it needs before we go off for a month, leaving America without this additional protection. This would be a solution to the problem.

The Director of National Intelligence has pleaded with us in person about this issue which involves—as we all now know full well, whether we are on the Intelligence Committee or not—a glitch in the Foreign Intelligence Surveillance Act of 1978, commonly referred to around here as FISA, that is causing our intelligence community to miss significant, actionable intelligence.

Now, the principle behind the FISA law is the same today as it was 30 years ago. It is the principle that foreign terrorists are a legitimate—I repeat, legitimate—target for electronic surveillance. But because of changes in the way terrorists communicate, U.S. intelligence personnel are no longer able to act on this commonsense principle with the speed and the flexibility the law was originally meant to give them.

In a significant number of cases, our intelligence professionals are now in the position of having to obtain court orders to collect foreign intelligence concerning foreign targets overseas in another country. This is absolutely absurd and completely unacceptable. We have never believed the targeting of a foreign terrorist overseas should require a FISA warrant. Let me say that again. We are talking about terrorists overseas. Yet that is the outrageous situation we find ourselves in today. It would be even more outrageous not to correct this glaring problem immediately before we leave town. And we will. We will be here as long as it takes to get this right.

Congress created FISA in 1978 because it believed the terrorist threat was real. That belief has been tragically confirmed since the law was created. Intelligence officials remind us repeatedly that the threat remains real. An unclassified version of the recent National Intelligence Estimate tells us that al-Qaida is reconstituting itself and that its lethal intent is just as strong today as it was on the morning of September 11, 2001.

The legislation could not be more urgent. While the administration submitted FISA modernization language months ago—this has been languishing for months—the only legislation before us is S. 1927, the McConnell-Bond bill, a bill specifically requested by the Director of National Intelligence.

We know this bill provides our intelligence community with the necessary tools to protect our homeland. We know if we pass this measure, the President will sign it into law. We know we have a duty to pass it today to protect the American people. So why wait? Why wait? This job must be done, and done now.

The recent National Intelligence Estimate on terrorism contained a finding that cooperation on the part of our allies may wane as 9/11 becomes a more distant memory and perceptions of the threat tend to recede. Has that memory faded so greatly in our own minds that we would leave for an August recess without taking the reasonable step of revising this law? I certainly hope not. It would be completely unacceptable. The intelligence community assures us that al-Qaida is not taking an August break.

The principle behind our electronic surveillance has not changed since 1978. But the terrorist threat has. As we have tried to adapt to this asymmetrical threat, the terrorists have adapted too—by using increasingly modern and increasingly lethal tools and technologies against us. They have used planes and, if they get their wish, they will use chemical and even nuclear weapons. They have killed our citizens and our soldiers by the thousands. And they have shown their intent to continue to kill on an even larger scale.

We must not let these enemies of America exploit a weakness that we can identify. We understand this weakness exists, and we need to fix it. Didn't we learn this lesson after 9/11? Some have blamed our failure to prevent those attacks on a failure of imagination. Some have said it was because we did not connect the dots. Well, we will never be able to connect the dots if we cannot collect them. Failure to pass this legislation would suggest an indifference on the part of Congress about our ability to connect those very dots.

Mr. President, I hope everybody understands the threat is real; the threat is urgent. We must not, we will not, leave for recess until we pass this urgent and necessary law.

Senator BOND and I and others will have more to say about this issue during the course of the day.

I yield the floor.

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

AMERICA COMPETES ACT

Mr. BINGAMAN. Mr. President, I want to take a very few minutes to comment on the action of the Senate last night in passing and sending to the President the America COMPETES Act.

With the passage of the conference report, I hope we will begin a long-term commitment by the Congress and by the executive branch to ensure our Nation continues to lead the world in innovation and economic competitiveness.

I will put in the record a full statement of the history that has led us to this point of hard work that has gone on by many in the Senate, in the House of Representatives, as well as in the private sector.

Yesterday, the House voted 357 to 57 to pass the conference report and in doing so affirmed that on large issues such as these we can work in a bipartisan way for the benefit of our Nation. Then, later last night, the Senate passed the conference report by unanimous consent.

This bill has been more than 2 years in the making. One primary impetus was in May of 2005, when Senator ALEXANDER and I asked the National Academies of Science to report on steps the Congress could take to keep the United States competitive in a rapidly changing global environment. That report, entitled, ''Rising Above the Gathering Storm,'' was spearheaded by Norm Augustine, former CEO of Lockheed Martin. It was released in October of 2005 and received significant attention in the U.S. media. The report clearly tapped into an increasing concern among many Americans about the challenges we face in competing against the rising national economies of countries such as India and China.

In January of 2006, Senator DOMENICI, Senator ALEXANDER, and I, along with 67 other cosponsors, introduced the Protecting America's Competitiveness Edge Act, or PACE Act. This bill reflected the recommendations of the Augustine commission and covered a wide array of topics related to competitiveness, including increasing funding for research and education and other provisions designed to encourage a climate of entrepreneurship and innovation.

On a separate track, in December 2004, the Council on Competitiveness released their report entitled, ''Innovate America.'' Based upon that report, Senators ENSIGN and LIEBERMAN introduced S. 2802, entitled the American Innovation Act of 2006.

That summer, Senator Frist asked the authors of both bills and other interested Members, including the chairman of HELP, Senator ENZI and Ranking Member KENNEDY, to draft a comprehensive Senate bill which was introduced in the Senate as S. 3936, the National Competitiveness and Innovation Act. S. 3936 was introduced in the final days of the 109th Congress as a FIST-REID bill.

Continuing this bipartisan effort in the 110th Congress, Senators ALEXANDER, DOMENICI, and I introduced S. 761, the America COMPETES Act, which was taken up by the Senate and passed 88 to 8 in April of this year, with Senators REID and MCCONNELL as the lead sponsors.

Meanwhile, similar efforts were going on in the House with the House Science Committee. The conference report that is on its way to the President is a result of bipartisan, bicameral compromise and cooperation.

Reconciling the House and Senate bills started before Memorial Day and involved the Senate Committees on Commerce, HELP, and Energy. In the House, it involved the Committees on Science and Education and Labor. All in all, it took the efforts of over 70 staff to complete this legislation. I want to thank the members of these committees for their bipartisan effort and long-term vision on keeping our Nation competitive.

I want to thank in particular the staff of these committees, all of whom put in long, hard hours, in many cases juggling the demands of other bills that their committee had on the floor. In the Senate, once things got underway 2 years ago, the process by which we operated was completely transparent—there was never a meeting held that did not include staff from both sides of the aisle. There was a remarkable lack of acrimony, and a striking absence of partisanship. I could not be more proud of this process and the staff that undertook it, and I think the conference report we passed last night reflects that process. It should serve as a model for the way this body should operate.

Mr. President, let me quote from the ''Rising Above the Gathering Storm''—

Without a renewed effort to bolster the foundations of competitiveness, we can expect to lose our privileged position. For the first time in generations, the nation's children could face poorer prospects than their parents and grandparents did. We owe the current prosperity, security, and good health to investments of the past generations, and we are obliged to renew those commitments in education, research, and innovation policies to ensure that the American people continue to benefit from the remarkable opportunities provided by the rapid development of the global economy and its not inconsiderable underpinning in science and technology.

This legislation represents that much-needed renewed commitment to bolstering our national competitiveness

Much of the good work that was contained in the legislation was a result of the report ''Rising Above the Gathering Storm,'' which was issued by the Academies of Science at the urging of several of us in the Senate. This report set out specific actions that needed to be taken by this country in order to keep our economy competitive in the world. Clearly, most of those recommendations have been adopted, and now they have been legislated into law as part of this America COMPETES Act.

I thank my colleagues—Senator ALEXANDER, of course, Senator DOMENICI, Senator ENSIGN, Senator LIEBERMAN, Senator KENNEDY, Senator ENZI, Senator INOUYE, Senator STEVENS. A great many people in the Senate had a major part in this legislation. I thank them.

I also want to particularly thank the staff. The hard work that went into this legislation was truly extraordinary. There were numerous staff from both sides of the aisle who worked very hard to make this effort a success.

From the Commerce Committee: Beth Bacon, Jeff Bingham, Jean Toal-Eisen, Christine Kurth, Chan Lieu, Jason Mulvihill, Floyd Deschamps, and H.J. Derr; from the HELP Committee: Beth Buehlman, David Cleary, Anne Clough, David Gruenbaum, Lindsay Hunsicker, David Johns, Carmel Martin, Roberto Rodriguez, Missy Rohrbach, Ilyse Schuman, and Emma Vadehra; from my personal staff: Michael Yudin, who does the work in our office on education issues, was an essential part of the effort from the very beginning and made enormous contributions to the education sections of the report; Melanie Roberts, an AAAS policy fellow in my office, did as well, worked hard; from the Energy and Natural Resources Committee: Bob Simon, our staff director; Mia Bennett; Kathryn Clay; Sam Fowler; Amanda Kelly; Judy Pensabene, who is the committee counsel for Senator DOMENICI; and Matt Zedler; on Senator ALEXANDER's staff: Matt Sonnesyn and Jack Wells are the two with whom I am most familiar who have worked so hard; from Senator LIEBERMAN's staff: Craig Robinson, Colleen Shogan, and Rachel Sotsky.

I also want to acknowledge the great work done by our leadership staff: Jason Unger and Mark Wetjen on Senator REID's staff, and by Libby Jarvis on Senator MCCONNELL's staff. Let me express my special thanks to the Senate Legislative Counsel's Office for their tireless work in getting this legislation ready so it could be completed before the August recess: Liz King coordinated the conference efforts with the utmost patience; John Baggaley, Gary Endicott, Gary Koster, Amy Gaynor, and Kristin Romero.

Finally, let me mention John Epstein in my own office and who works on the Energy Committee staff. I am convinced that if it were not for John's tireless efforts to move this legislation forward and his unfailing commitment to a collegial, bipartisan process, the bill would not have been able to be passed in this timeframe. I am extremely grateful to him for his persistence and integrity throughout the process. Also, let me particularly thank Trudy Vincent, my legislative director, for the great work she did on this legislation from its inception to its completion.

I yield the floor.

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

FISA MODIFICATIONS

Mr. BOND. Mr. President, I thank the Chair.

I hope I have the attention of all of my colleagues because I believe we have an opportunity—we have an absolute necessity—to pass the Foreign Intelligence Surveillance Act modifications prior to leaving for the August recess. It is absolutely critical for our national security that we change the law which currently, by its application, is denying our intelligence community a very significant portion of the signals intelligence they could collect on al-Qaida and other terrorist sources who may well be planning another 9/11 attack on the United States.

It has been publicly disclosed that al-Qaida's discussions are more active now than they had been since 2001 and even more since 2001, but we are, because of the application of this law, partially deaf to those communications. If we are to protect our homeland, the people of America, as well as our troops in the field, we have to collect better intelligence because that is our only significant weapon to fend off the attacks of those, through their misguided ideas, who want to inspire terror and kill as many Americans as possible.

The Director of National Intelligence, Mike McConnell, whom I believe the people in this body have come to know and respect, told us in April that it was urgent that we reform the FISA law. He sent us a proposal on April 27. He appeared before our committee in open hearings on May 1 and discussed at length the challenges and the threat we face and the need for revision of the FISA law. I had hoped we would move on that at the time, but some wanted to get more Department of Justice opinions. Nothing happened. I offered my version. My version, on behalf of Republican members, drew no response.

The DNI, Director of National Intelligence, Admiral McConnell, came before a session of the entire Senate in S–407, our classified security area, a month ago, and he told us about the need to reform the law and to reform the law now. A significant number—not a majority—of this body was there, but everybody who heard him speak recognized the absolute, compelling necessity to move. Since time was running out, he offered a slimmed-down proposal.

There are a number of things which need to be done with respect to FISA that can wait, and to accommodate the concerns of some on the other side of the aisle, he agreed to hold off dealing with issues such as carrier liability and streamlining FISA. But he presented to us a measure that he said was critically important, that must be passed so we don't remain deaf during August to discussions of threats being carried on by al-Qaida and others seeking to do us harm.

As a result of the submission he made, we had another hearing for all Members of the Senate on Tuesday night, and at that Tuesday night session, several Democratic chairmen raised concerns with him about his proposal and their desire to have a different form. I was not privy to their

negotiations, but through the good efforts of Director McConnell, I found out what they were proposing, and it was obvious to me, as it was clear to Director McConnell, that this would not allow him to do what he needed to do and would not allow NSA to move forward on collection of vital information needed for his job to keep America safe.

The next day, the admiral modified his original proposal to take into account some of the reasonable concerns the Democrats raised, things he thought he could live with. Leader MCCONNELL and I introduced that on Wednesday evening. Since that time, there have been several more iterations coming from Democratic staff and some Democratic chairmen that have been presented to Director McConnell. He has reviewed them, and they do not meet the needs. He has responded to them, to try to find ways to accommodate them, and he has not been able to accommodate them.

The admiral now is traveling and out of contact. He said that given the lateness of the hour and the fact that this is such a critical issue, the negotiations are over, and he said he would make one more accommodation to meet concerns of the majority party. So he has agreed that he would support and urge the President to sign the McConnell-Bond measure introduced on Wednesday night, with one accommodation; that is, to add a 6-month sunset to provisions of the law allowing the operations to continue under the orders put forward at that time.

It will be my intent, after discussions with the leaders, to attempt to call this measure up so we can go to work on it and get it done, to keep our country safe and to allow us to come back after the recess and work on other portions of the FISA law that may be necessary and I think are very necessary. But right now, to keep the country safe, we need to pass this measure.

The Director of National Intelligence said——

Mr. CHAMBLISS. Mr. President, would the Senator yield for a question?

Mr. BOND. I would be happy to.

Mr. CHAMBLISS. I wish to ask the Senator about really the guts of what we are talking about because I want to make sure the American people thoroughly understand this. The FISA law is the law that deals with the collection of intelligence by our intelligence gatherers through the airways and through any other means we can seek to gather that information, whether it is e-mails, telephone calls, or whatever.

Is it correct that right now our intelligence community is telling us they are not just handicapped but they are hamstrung and they do not have the ability because of the delay of this body and of the House of Representatives in passing this legislation which would give them the tools with which to go out into the bad guys' territory and collect information on those bad guys about what they are saying relative to potential attacks against Americans?

Mr. BOND. Mr. President, the Senator from Georgia—and a valuable member of the Intelligence Committee—is precisely right. What we have before us is what is absolutely necessary to keep our country safe. He asked for the basic provisions.

Basically, what Senator MCCONNELL has proposed—which is not a Republican proposal, it is not a Democratic proposal, it is the proposal of Admiral McConnell as the Director of National Intelligence—is that the Government, the intelligence community, can listen in on communications from foreign sources, foreign intelligence, of somebody located overseas. If they find a suspect in the United States—and we call that a U.S. person—then any collection has to go before the FISA Court, which was established in 1978, before any collection can start against that target. It allows the Attorney General, with the Director of National Intelligence, to authorize that collection.

Now, the DNI's proposal has made a number of accommodations to the points raised by our Democratic chairmen at that Tuesday night meeting. It includes having the FISA Court review the procedures to ensure that the targets of our collection without a warrant are overseas. I don't think court review is necessary, but it is an added layer of protection that several key Democratic chairmen wanted.

I have been to NSA. I have seen how the procedures are so carefully monitored, with layers of oversight, supervision, reviews of attorneys, reviews of the inspector general, to make sure that the only intelligence they are collecting without a warrant is where the target is a person reasonably believed to be outside the United States.

Mr. CHAMBLISS. Mr. President, would the Senator yield for another question?

Mr. BOND. I would be happy to.

Mr. CHAMBLISS. Mr. President, is it not true that prior to September 11, certain of the September 11 hijackers were inside the United States and communicating outside the United States to the leaders of al-Qaida, who were giving them instructions, who were sending them money, and who were providing them the details of the circumstances leading up to the events of September 11? We did not have the capability at that time of intercepting those conversations because we did not have this particular program in place. Therefore, is it not true that we missed some of the intercepts of correspondence between the September 11 hijackers and their leadership overseas?

Is it not true that following September 11, the very essence of the program we are talking about now that the DNI says he needs, it was in place following September 11, but because of circumstances beyond his control, it is now not in place? Isn't it true that what he is asking for is the ability to gather information from any prospective terrorist who we know may have the ability and the intent to attack Americans, either on foreign soil or on domestic soil, and that what is sought to be done here is not to intercept conversations between Americans, not to intercept conversations even between terrorists who are in America, but what the DNI needs is the ability to intercept conversations coming out of areas such as Pakistan and Waziristan?

Potential terrorists or actual terrorists who reside in the United States, much like happened prior to September 11—and we are about to get out of here for a month—we know this is a time when the Director and the Secretary of the Department of Homeland Security have said it is a high threat month. Would the Senator not agree that it is imperative that we give the intelligence community the ability to listen to those terrorists' conversations, which may include—and I emphasize ''may'' because this is a moving target—may include listening in on the planning of potential activity inside the United States?

Mr. BOND. Mr. President, I ask unanimous consent for 5 more minutes to answer the questions that have been raised.

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

Mr. BOND. I thank the Chair. I thank my colleague from Georgia for a very fine statement.

I don't remember all of the questions, but I do remember his last question, which was, is it imperative for national security that we adopt this now. The Senator is correct. We were unable to accept communications prior to September 11, 2001. After that tragedy occurred, the President instituted a program, which he revealed several years later, to intercept foreign calls from al-Qaida coming into the United States and, because of concerns and questions raised in oversight, the President put the program to intercept foreign intelligence under the FISA Court. Now, at this point, because of the change in technology since the time FISA was adopted in 1978, inadvertently the new technology being used comes under FISA and prevents, in many instances, the collection of information on a foreign target.

The foreign targets are the ones, as the Senator from Georgia so correctly pointed out, who were giving information, and still give information and direction and strategic operations, to terrorists who may well be in the United States. Yes, it is vitally important that we change this now. I hope my colleagues will review this and that we can get a large, bipartisan majority. This is not a Republican proposal. I tried my Republican proposal and didn't get a majority to support that. There are Democratic proposals and, to the extent they can be accommodated by the DNI and allow him to take the collections he needs against foreign

targets, without a warrant—unless we can change the law, he will be deaf and we will be endangered in August and thereafter.

Regarding the question my colleague from Georgia raised about terrorists communicating in the United States, if there is collection, if we have intelligence that there are terrorists communicating in the United States—they would be non-U.S. persons—we would still have to go to the FISA Court to get an order before anybody can collect on them. If a U.S. person receives a call, the U.S. person's participation is what they call minimized and it is put aside. That person does not become a target if he or she is a U.S. person, unless and until there is a FISA Court order included.

Mr. CHAMBLISS. Will the Senator yield for a final question?

Mr. BOND. Yes.

Mr. CHAMBLISS. First, I thank the Senator for his great leadership. The Senator said we have worked on this in a bipartisan way in the Intelligence Committee since April. The Senator and Senator MCCONNELL have proposed a fix to this particular issue that now is before the Senate. Is it not true that everybody on this side of the aisle is prepared to vote for that, vote their conscience on it, whatever it may be, and that we expect a number of Senators from the other side will also be supportive of that? Are we ready to vote on this, to give the DNI the authority he has asked for?

Mr. BOND. Yes. I have a very important message from the DNI:

> We understand that the FISA court judges urgently support a more appropriate alignment of the court's caseload and jurisdiction away from the focus on non-U.S. persons operating outside of the United States. The judges have clearly expressed both frustration with the fact that so much of their docket is consumed by applications that focus on foreign targets and involve minimal privacy interests of Americans.

That is the end of the statement that has been communicated to us by electronics from the DNI—that FISA Court judges have asked today that we pass a law that gets them out of the business of overseeing foreign target collection.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that following my remarks, the Senator from North Dakota be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. Reserving the right to object. May I ask the Senator from Missouri, the ranking Republican on the Intelligence Committee, a quick and simple question prior to that? It won't take more than 2 minutes to deal with.

Mr. HATCH. We only have about 8 minutes to go, but that is fine.

Mr. GREGG. I ask the Senator from Missouri if he could give his estimate of how much of a diminution of the ability of the intelligence community occurs if we do not pass adequate FISA authorization? Would it be a 30-percent reduction in their ability, or is it 20 percent? Can the Senator give a ballpark figure?

Mr. BOND. Mr. President, I thank the Senator from New Hampshire. I am not at liberty to disclose the amount, but it is very significant. I cannot give him the percentages, but it is more significant than the Senator has suggested.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I add to that that it is very significant. We do know that.

I thank the distinguished Senator from Missouri for his remarks because he is a leader in this area and certainly has no higher interest than protecting our country and our citizens.

Mr. BOND. I thank the Senator from Utah.

Mr. HATCH. Mr. President, as Congress prepares to adjourn for the traditional August recess, I want to draw continued emphasis to a significant issue: FISA modernization.

I am greatly encouraged by the bipartisan negotiations concerning this topic. However, I remain troubled about the possibility of adjournment without resolution of this vital initiative. It is very—simple passing a bill with limited FISA modernization will contribute to a safer America. If passing this bill means we must delay our recess, then we must do it. We should be able to get together today, though.

Do you think al-Qaida takes a recess? It is essential that we not adjourn until we send an appropriate bill to the President.

While some issues that we debate in Congress necessitate that we persuade Members of a pressing need, this is not one of them. Every Senator in the 110th Congress knows that the current FISA statute has loopholes which are putting our country at increased risk.

How should we tackle this issue? I suggest we take a logical and sound approach: Identify the problem, discuss and debate solutions, implement the solution. In this case, we have identified the problem.

The Foreign Intelligence Surveillance Act has not been changed to reflect the vast technological changes that have occurred since this law was passed in 1978. Since the law has not been appropriately modified, our Nation is missing potentially valuable intelligence that is essential to protect our country. Getting this intelligence is essential for our safety. It is about getting the enemy's secrets—their plans and intentions—without them knowing we've got them.

The Director of National Intelligence, Mike McConnell, has done a tremendous job in explaining the exceptional problems that our intelligence community continues to encounter based on antiquated sections of the law. When the United States Director of National Intelligence says our country is at risk, I hope we are listening. Let me read a quote that Director McConnell recently stated:

> Many Americans would be surprised at just what the current law requires. To state the facts plainly: In a significant number of cases, our intelligence agencies must obtain a court order to monitor the communications of foreigners suspected of terrorist activity who are physically located in foreign countries. We are in this situation because the law simply has not kept pace with technology.

This is a powerful statement that Director McConnell gives. However, I must disagree with one thing he says. I don't think most Americans would be ''surprised'' by what our current law requires, I think most Americans would be outraged by what our current law requires. A terrorist in Afghanistan speaks with a terrorist in Iraq, and U.S. intelligence agencies need a court order to listen to this conversation?

This is absurd.

We need to bring FISA back to its original intent to protect the rights and privacy of American individuals while allowing us to monitor foreign individuals outside of the United States.

The President of the United States has also recognized the perilous situation in which we find ourselves. In his radio address last weekend, he stated that ''Our intelligence community warns that under the current statute, we are missing a significant amount of foreign intelligence that we should be collecting to protect our country.''

Let's look closely at this. Our intelligence community is saying that we are missing a significant amount of foreign intelligence. Why are we missing this intelligence? Is it because we don't know how to get it?

No.

Is it because we don't have the ability or funds to get it?

No.

Is it because terrorist groups have technology that we can't exploit?

No.

It is because a law passed in 1978 has not been appropriately amended to conform with the technological advances that we have seen since that time. Why are we handcuffing ourselves?

I believe most Americans would look at this situation and simply shake their heads.

If we know we have a problem, and we know how to fix it, why don't we? Is the excuse that we might not have enough time before recess?

Of course we have time.

We'll make time.

It is outrageous that we would even consider a recess while this problem and other loopholes of the FISA law remain intact.

If we can't get this done, why are we here? It is no wonder that the approval ratings for Congress are approaching all time lows.

Quite simply, we have a problem, but we know how to fix it. I note that Senator BOND has introduced a straight

forward measure which we can pass today.

This bill will put the tools back in the hands of the people who work tirelessly in providing a safe environment for American families throughout this great country.

This amendment of FISA simply returns the law to its original intent, which is twofold: first, allowing surveillance of foreign targets, who were never underprotected under FISA; and second, guaranteeing the privacy and rights of U.S. persons, who remain protected.

It is time to address this situation. I would ask my colleagues to join me in pledging to pass legislation in this area before we recess. This is not about partisan politics.

This is about protecting Americans. We are all painfully aware of the continued dangers that our country continues to face at the hands of organized groups and dedicated individuals who desire nothing more than the collapse of our country as a superpower.

This is not a case of the boy who cried wolf. We know the threats are out there. However, each day that passes creates emotional distance between the nightmares of September 11, and each new day provides opportunities to heal.

We don't have to live our lives in fear, but we have to acknowledge that the world changed that day. Rather than obsessing over news reports, let's enjoy the tremendous opportunities that the greatest Nation on Earth provides.

And let's ensure that all of the dedicated and noble professionals who play a part in ensuring our liberty and safety are not hampered by nonpartisan problems that we have the ability to fix.

We always hear that the terrorists have an asymmetrical advantage over us: They do not operate as nation-states, and some of them are willing to die as suicide bombers.

But we have a massive asymmetrical advantage over them: Our technological prowess.

Are we to compromise one of our greatest strengths, when that strength is essential, effective and lawful?

I remind my colleagues that even though we will return to our States for the recess, our enemies and their threats don't go away. They don't adjust their schedules to fit ours.

Make no mistake, inaction on our part needlessly subjects every American to increased danger. We need to act.

We have two options: Cut into August recess if necessary to provide safety to Americans, or go home and leave this vulnerability intact.

The answer is an easy one: Let's ensure that our defenders have all of the tools they need for our continued safety, no matter how long it takes.

I urge my colleagues to join me in pledging to pass FISA modernization legislation before our recess. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

(The remarks of Mr. STEVENS pertaining to the introduction of S.J. Res. 17 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 11:33 a.m., the Senate recessed subject to the call of the Chair and reassembled at 8:08 p.m., when called to order by the Presiding Officer (Mr. TESTER).

The PRESIDING OFFICER. The majority leader is recognized.

THANKING THE PRESIDING OFFICER

Mr. REID. Mr. President, first of all, I express my appreciation to you, the Presiding Officer. You have been very patient all day, as have all the Members but you especially, having to be on standby and calling us back into session. I appreciate that very much.

PROTECT AMERICA ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to debate concurrently S. 2011, now at the desk, and S. 1927, as amended with the changes now at the desk; that there be 60 minutes of debate equally divided between the two leaders or their designees; that no amendments or motions be in order with respect to either bill; that at the conclusion or yielding back of time, the bills each be read a third time and the Senate vote on passage of S. 1927, as amended, to be followed by a vote on passage of S. 2011; that if either bill fails to achieve 60 votes, then the vote on passage be vitiated and the bill be placed on the calendar in the case of S. 2011 or returned to the calendar in the case of S. 1927, as amended.

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

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2011) cited as the ''Protect America Act of 2007''.

A bill (S. 1929) to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

The amendment (No. 2649) to S. 1927 is as follows:

(Purpose: To provide a sunset provision)

At the end, add the following:

(c) SUNSET.—Except as provided in subsection (d), sections 2, 3, 4, and 5 of this Act, and the amendments made by this Act, shall cease to have effect 180 days after the date of the enactment of this Act.

(d) AUTHORIZATIONS IN EFFECT.—Authorizations for the acquisition of foreign intelligence information pursuant to the amendments made by this Act, and directives issued pursuant to such authorizations, shall remain in effect until their expiration. Such acquisitions shall be governed by the applicable provisions of such amendments and shall not be deemed to constitute electronic surveillance as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)).

Mr. REID. Mr. President, I ask on our time that Senator ROCKEFELLER be given 10 minutes.

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

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished majority leader and the distinguished Presiding Officer.

Mr. President, the Rockefeller-Levin bill before the Senate will provide the Director of National Intelligence, Mike McConnell, the temporary authorities he needs to expand his ability to collect time-sensitive intelligence against foreign targets as the Congress continues to work on a more lasting effort to reform the Foreign Intelligence Surveillance Act, or FISA, after 6 months has passed.

I wish to make this very clear. The Rockefeller-Levin bill is the bill of the Director of National Intelligence, who was appointed by the President to be in charge and make all decisions with respect to this matter. In the statement DNI McConnell put out at 4:39 this evening, he said:

I urge Members of Congress to support the legislation I provided last evening to modify FISA and equip our intelligence community with the tools we need to protect our Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD the DNI's full statement at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ROCKEFELLER. He is talking about our bill, the bill I am now talking about. The Rockefeller-Levin bill is the bill the DNI is referring to in his statement. I am not shy about saying that; I am proud of it. The bill he provided to us last evening—that is our bill, not the other one, our bill—is not the Bond bill that was filed 2 days ago. It is our bill.

Our bill takes the DNI's preferred bill and modifies it in a limited number of ways to make it stronger without in any way diminishing the fundamental intelligence authorities the DNI needs. Our bill includes a sunset provision of 6 months, the same sunset provision or period that is contained in the Bond bill, I might add, and we are told that the DNI accepted. In fact, he has told us specifically he accepts it.

Our modified DNI bill—Director of National Intelligence—would allow our intelligence community to begin the surveillance of terrorist suspects, targets located overseas, immediately upon the signing of the bill, even if those targeted calls enter the United States. In other words, you start immediately in the collection. Why is this? Because the collection is not complete. We are not going in all

places we should be, and that is the national requirement because of various warnings that have been issued. So there is no delay—immediate collection—provided there has been a determination by the Attorney General and the DNI that the target is foreign.

The only requirement in this bill on the collection is the requirement that the Foreign Intelligence Surveillance Court must be presented, for its review and approval, the Attorney General's guidelines on how the determination is to be made that targets of surveillance are overseas. So the Foreign Surveillance Intelligence Court remains very much a part of our bill, the bill the DNI prefers. This process of court review and authorization of procedures—not individual targeting determinations but a straightforward review that the procedures are reasonable—is at the heart of both the DNI's bill and ours.

While the DNI proposal of last night sets forth a 90-day period during which this intelligence collection can take place before the court needs to issue another authorizing of the collection, our bill modifies the time involved in this process—we thought that was too long—which we believe will be relatively straightforward and noncontroversial, so that the application, including the guidelines, is submitted to the FISA Court within 10 days after surveillance begins and that the court must act within 30 days, which the court could then extend if additional time is, in fact, needed.

All during this 30-day period of application submission and court review, the collection against foreign targets continues. I keep making that point because it was very hard for people to come to terms with that. This is not case-by-case review. Methods are established, authority is given, and collections can continue.

Moreover, once the court approves the guidelines, the Attorney General is not required to return to the court for further approval for the remainder of the 6-month period of this legislation.

This process provides minimal and yet essential oversight while not inhibiting or delaying the intelligence collection from proceeding. The Rockefeller-Levin bill accepts the DNI-requested authority to proceed during this FISA Court review.

The Bond bill, on the other hand—and I greatly respect and have strong affection for my vice chairman, but we have competing bills, and let the difference be known. The Bond bill, on the other hand, provides a weak and practically nonexistent court review of the procedures for how to determine that a target is foreign and not American. The Bond bill would not require the Attorney General to submit the application and guidelines in the FISA Court until 4 months into the 6-month life of the bill, and then the Bond bill would not require court approval until 6 months has gone by.

In other words, under the Bond bill, court approval of these simple and straightforward guidelines on how the Attorney General would determine whether a target is indeed foreign, guidelines that DNI has told me personally exist already—let me repeat, guidelines that he has said exist already—the guidelines that would have to exist before collection could begin in the first place for the surveillance to be legal under the Bond bill.

These guidelines would not have to be submitted until 4 months into the 6-month life of the bill and would not have to be approved by the court until the last day that the law would be in effect.

Is that meaningful court review over what is a straightforward matter of court review and can easily be handled within 30 days? It is, of course, not, and is, frankly, a farce.

The Rockefeller-Levin modified DNI bill makes sure the Attorney General has guidelines in place to address the concerns of many, including our intelligence officials, that surveillance of foreign targets not inadvertently result in the reverse targeting of Americans and their communications based on innocent communications swept up between Americans and individuals overseas. Our modified DNI bill also states right up front that a court order is not required for the surveillance of foreign-to-foreign communications, even if the interception of the communication occurs in the United States.

The DNI and others have made a huge point about keeping the surveillance of foreign-to-foreign communications outside the FISA process, and I agree. The Rockefeller-Bond bill made clear that this is the case.

I could spend additional time explaining why the Bond bill falls short of the bill that the DNI asked us to pass, in public, earlier this evening. I could spend additional time explaining the merits and protections contained in our bill. But time has run out.

Before us now is a very simple question, and I say this with some heat: Will the Senate pass a bill that the DNI wants, a bill that gives him the collection tool he needs for the next 6 months, and then we review the whole process again, a bill which both Republicans and Democrats can support and can rally around, to clearly demonstrate that we put national security above politics and that we are ready to break with the partisan gridlock of the past and produce results, results which give all Americans some comfort that we have our priorities straight? And we do.

I urge my colleagues to support the Rockefeller-Levin modified DNI bill, and I close, with some lack of subtlety, with the words of the DNI earlier this day:

I urge Members of Congress to support legislation I provided last evening to modified FISA and equip our intelligence community with the tools we need to protect our Nation.

That is our bill; not their bill—our bill. Passage of the Rockefeller-Levin bill—not the Bond amendment, our bill—would give the DNI the tools he needs with the necessary court review and oversight as we continue over the next 6 months on more legislation to reform FISA.

EXHIBIT 1

DIRECTOR OF NATIONAL INTELLIGENCE,
Washington, DC, August 2, 2007.

STATEMENT BY DIRECTOR OF NATIONAL INTELLIGENCE

Subject: Modernization of the Foreign Intelligence Surveillance Act (FISA)

I greatly appreciate the significant time many Members of the Senate and the House of Representatives have taken to discuss with me the urgent need to modernize FISA. I also appreciate the bipartisan support for ensuring the Intelligence Community can effectively collect the necessary intelligence to protect our country from attack. In view of the significance of this issue, its impact on the Intelligence Community's ability to be effective and the continuing dialogue to come to closure on an effective bill, it is important for me to discuss the essential provisions needed by the Intelligence Community.

We must urgently close the gap in our current ability to effectively collect foreign intelligence. The current FISA law does not allow us to be effective. Modernizing this law is essential for the Intelligence Community to be able to provide warning of threats to the country.

CRITICAL CHANGES NEEDED

First, the Intelligence Community should not be required to obtain court orders to effectively collect foreign intelligence from foreign targets located overseas. Simply due to technology changes since 1978, court approval should not now be required for gathering intelligence from foreigners located overseas. This was not deemed appropriate in 1978 and it is not appropriate today.

Second, those who assist the Government in protecting us from harm must be protected from liability. This includes those who are alleged to have assisted the Government after September 11, 2001 and have helped keep the country sate. I understand the leadership in Congress is not able to address before the August recess the issue of liability protection for those who are alleged to have helped the country stay safe after September 11, 2001. However, I appreciate the commitment of the congressional leadership to address this particular issue immediately upon the return of Congress in September 2007.

PROVISIONS THAT HARM INTELLIGENCE COMMUNITY OPERATIONS

The Intelligence Community should not be restricted to effective collection of only certain categories of foreign intelligence when the targets are located overseas. We must ensure that the Intelligence Community can be effective against all who seek to do us harm.

The bill must not require court approval before urgently needed intelligence collection can begin against a foreign target located overseas. The delays of a court process that requires judicial determinations in advance to gather vital intelligence from foreign targets overseas can in some cases prevent the rapid gathering of intelligence necessary to provide warning of threats to the country. This process would also require in practice that we continue to divert scarce intelligence experts to compiling these court submissions. Similarly, critical intelligence gathering on foreign targets should not be halted while court review is pending.

However, to acknowledge the interests of all, I could agree to a procedure that provides for court review—after needed collection has begun—of our procedures for gathering foreign intelligence through classified

methods directed at foreigners located overseas. While I would strongly prefer not to engage in such a process, I am prepared to take these additional steps to keep the confidence of Members of Congress and the American people that our processes have been subject to court review and approval.

I appreciate the President's and the congressional leadership's commitment to provide the Intelligence Community the necessary tools to protect our country and keep us safe from those who seek us harm. My most solemn duty is to protect America, provide warning, and ensure that our Intelligence Community acts within our Constitution and laws.

The PRESIDING OFFICER. Who yields time? The majority leader.

Mr. REID. Mr. President, before my distinguished friend leaves the floor, I just spoke with Senator LEAHY. He does not want his name as a sponsor. He is supportive of the deal, but he thinks it should be Rockefeller-Levin.

I yield.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I yield myself 5 minutes. First, before my good friend, the chairman of the Intelligence Committee leaves the floor, through the Chair, may I address the chairman of the Intelligence Committee. The Director of National Intelligence is sitting right off the floor here, and he has not seen—he has just seen your bill. He does not support it. I ask if the chairman of the Intel Committee would step outside and talk to the Director of National Intelligence to see whether, in fact, he does or does not support the Rockefeller bill or the bill that we introduced on behalf of the DNI, which is now pending as amendment No. 1927.

Mr. ROCKEFELLER. Has the distinguished vice chairman asked me a question?

Mr. BOND. Yes. Would you be willing to step off the floor to ask the DNI?

Mr. ROCKEFELLER. I don't need to. The head of National Intelligence has made it very clear and has issued a public statement that he supports our bill. He says:

I reviewed the proposal that the House of Representatives is expected to vote on this afternoon to modify the Foreign Intelligence [et cetera]. The House proposal is unacceptable, and I strongly oppose it. [et cetera] I urge Members of the Senate to support. . . .

Mr. BOND. I, at this time, reclaim my time and thank the chairman for his answer. Let me tell you, none of us have seen this bill that is a total new draft of the measure until just a few minutes ago, and we are absolutely stunned that this bill adds new burdens to the already overburdened process of collecting against foreign targets. This bill says it can only apply to communications between foreign persons without a court order. You can't tell if it is a communication between foreign persons when you target a foreign source because you don't know with whom that person is communicating. That is why there are so many burdens now on the FISA Court.

The DNI has said explicitly—he has told us that he opposes the Rockefeller-Levin bill. The DNI has stated that the bill that Senator MCCONNELL and I offered, S. 1927, which we filed on Wednesday night, is the bill that he supports.

Any one of my colleagues who wants to, I invite them to step out this northeast door and talk directly with Admiral McConnell because I think it is extremely important that you find out what his position truly is.

Let me be clear: The bill that was introduced by Senator MCCONNELL and me was the bill that Admiral McConnell had modified after having comments to which he listened from several Democratic chairmen on Tuesday evening. He added the provisions for court review—they are court reviews within 120 days, 4 months—that would be adapted to the new requirements in FISA that did not exist before that will take some time to get together. And it also included a provision that there would be, in addition to that—that there would be the DNI who would be one of the people making the certifications—two things that were requested.

There is one other modification that I will ask unanimous consent to make, or offer an amendment to make, when we prepare to debate on the bills, and that is to include a 6-month sunset so we will have the opportunity to review this bill.

With that, I will have more to say about that later, but the DNI explicitly will tell anybody who steps outside that he does not support this bill.

It is in the bill, excuse me.

I thank the distinguished majority leader. But with that, I will yield the floor and allow other Members to communicate.

Mr. ROCKEFELLER. Does the vice chairman yield?

The PRESIDING OFFICER. Who yields time?

Mr. BOND. I reserve the remainder of my time.

Mr. LEAHY. May I make a parliamentary inquiry?

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. LEAHY. Mr. President, we have before us two pieces of legislation; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Would the Chair please state who the sponsors are of the two individual pieces of legislation?

The PRESIDING OFFICER. S. 2011 is sponsored by Senator LEVIN and Senator ROCKEFELLER; S. 1927 is sponsored by Senator MCCONNELL and Senator BOND.

Mr. LEAHY. I thank the Chair.

Mr. REID. Is Senator LEVIN ready to speak? Is Senator FEINGOLD ready to speak? No.

Mr. BOND. Mr. President, I yield 4 minutes to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I want to add a dimension to this debate, and that is that I have had the privilege of knowing Admiral McConnell for some years. He does not have a scintilla of politics. He left a very lucrative position in the private sector to once again join and serve as a public servant. Thus far, I think all of us would say he has handled this challenging new office, Director of National Intelligence, with great distinction.

How well I remember just a week or so ago, I say to my distinguished colleague from Missouri, when he came up in S–407 and spoke to some 30 or so—more than that, close to 40 Senators, bipartisan—and Senator after Senator got up and complimented him on his very straightforward manner of delivery. Without hesitation he called the situations that were before him in question as he saw them. He communicated publicly with the Senate, expressing on the second of August his views of what he believed should be in those revisions that should be made by the Congress.

I find this procedure very disturbing. It is essential for the United States of America to continue to obtain the intelligence under this program. There is every desire to make sure that we will comply with the law, but the law does need some revision. It is incumbent upon this body and, hopefully, the House of Representatives to resolve this situation before we go into the August recess, because it is our own security that will suffer unless we follow the advice of this very distinguished public servant who only wishes to do what is best in the interests of the United States and the people of our country and our troops serving abroad, our troops serving wherever they are in the world.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I appreciate everyone's hard work. It has been a very difficult time to get here. I especially wish to extend my appreciation to Senators ROCKEFELLER, LEVIN, LEAHY, FEINGOLD, DURBIN, MIKULSKI, FEINSTEIN, NELSON, and I am sure I have missed some people, but those are the ones whom I have heard from recently—and certainly SHELDON WHITEHOUSE, who put in the graveyard shifts.

I wish to say, before I turn to my prepared remarks, I too have the greatest admiration for Admiral McConnell, but I have to say, I am concerned that we have Admiral McConnell here checking on us. I mean, he should not be—''do you want to go ask him how he feels about this legislation?''

I can't appreciate that. I think it is wrong that this man whom we put in this very important position is here roaming the halls finding out how we are going to vote, sending Senators out to find out how he feels about it?

Mr. BOND. Will the distinguished Senator yield for a question?

Mr. REID. I will in a minute.

Because he supports the legislation offered by my friends Senators MCCONNELL and BOND and does not support

this does not mean this is bad legislation.

I will be happy to respond to a question. If you can use your time, that would be great.

Mr. BOND. Very quickly. Does the distinguished majority leader know that Admiral McConnell is here because three of his members specifically asked that he come over and comment on these bills, and at their request we invited him to come here to respond to their questions?

Mr. REID. I appreciate that. I misunderstood. I thought he was waiting in the hall to answer questions. You asked one Senator if he wanted to go ask him how he felt about the legislation. I think that is inappropriate.

Mr. LEAHY. Would the Senator yield for another question? I also note in here S. 1927 basically gives a great deal——

Mr. REID. I have the greatest respect for my friend. I wish to get my statement out while I have time. We are on a very limited timeframe. I know the Senator knows the details of it, but I have a few things I wish to say.

Mr. FEINGOLD. Mr. President, if I could I wish to make one comment about the issue the Senator raised about Admiral McConnell.

The last time we checked, there are 100 Senators elected to enact public policy. The notion that somebody who was confirmed by the Senate to execute these policies is a person who should be able to veto what we do here on the basis that he has a distinguished background is somewhat questionable.

That discounts the qualities of every Member of this body, that discounts the qualities of every hard-working staff member who knows the law and has good ideas about what this public policy should be.

I voted for Admiral McConnell. I respect him. The day we start deferring to someone who is not an elected Member of this body, or hiding behind him when you do not have the arguments to justify your position is a sad day for the Senate. We make the policy, not the executive branch.

Mr. REID. Mr. President, I may have to use a little bit of leader time because our time is fast ending. So I will do that as quickly as I can.

Mr. President, as we know from the briefings we have received from the Director of National Intelligence, the FISA law needs to be updated. But I underscore and certainly want to be made part of the statements made by my friend, the Senator from Wisconsin, Mr. FEINGOLD.

Our intelligence community professionals are currently lacking, we are told, critical information and tools they need to protect this Nation from terrorism.

My goal, when I learned about the intelligence communities' concerns, was to pass the legislation that addresses DNI's legitimate concerns, asserts our oversight responsibility, protects the rights of American citizens, and is temporary in duration.

I believe the legislation offered by Senators ROCKEFELLER and LEVIN achieves each of these goals, gives the communities all the tools they need, but at the same time it makes the independent FISA Court, not the Attorney General, the overseer of the methods and procedures used for collecting foreign intelligence.

Democrats and Republicans want to aggressively pursue al-Qaida and other terrorist organizations and other terrorists. This bill does that, but not at the cost of targeting American citizens without court authorization. We have had many conversations in the last several days with Admiral McConnell. I can say with great confidence that this legislation provides him with everything he asked for in these discussions, everything.

He told us he wanted the tool to collect foreign-to-foreign intelligence communications without a warrant. He got it. He told us he wanted the ability to compel compliance from communications providers with liability protection. He got it.

He told us he wanted the ability to collect all foreign intelligence information, not just intelligence related to terrorism. He got it. He told us he wanted the ability to temporarily begin the collection of intelligence without seeking a court order. He even got that.

In fact, the legislation was provided by the administration to Admiral McConnell, and that legislation, he said in a statement today, he strongly supports—which we have heard—served as the starting point for the Levin-Rockefeller legislation. That is what we have before us; it is a modified McConnell amendment.

What we have before us tonight, with very modest edits, is Admiral McConnell's proposal, what he told us he wanted, and what he gave us in writing.

I would hope it receives the broad support of the Senate. The Bond legislation, on the other hand, is not something I can support. It authorizes, in my opinion, warrantless searches of Americans' phone calls, e-mails, homes, offices and personal records and for however long it is appealed to the court of review and the Supreme Court takes. This process could take months or indeed years.

Even worse, the search does not have to be directed abroad, just concerning a person abroad, any search, any search inside the United States, the Government can claim to be concerning al-Qaida is authorized. I do not believe that is the right way, the strong way or the Constitutional way to fight the war on terrorism. I urge all Members to support the Rockefeller-Levin bill.

It does everything that Admiral McConnell has requested. It strikes the right balance between protecting the American people from terrorism and preserving their Constitutional fundamental rights.

Let the record be clear: Every Senator here tonight is patriotic and wants to get rid of these bad people and find out everything they are talking about, in a way that is in keeping with our Constitution. I appreciate the service of my friend from Missouri. He has been a valiant member of that committee and does a good job.

So let's not question tonight, and I hope I have not done that, anyone's patriotism or what they are trying to do. What we are trying to do is the right thing. But I believe the best way to go is by supporting the second vote, which will be Levin-Rockefeller.

The PRESIDING OFFICER. Who yields time?

Mr. REID. How much time do we have on our side?

The PRESIDING OFFICER. Fifteen minutes.

Mr. REID. I yield 7 minutes to Senator LEVIN, 5 minutes for Senator FEINGOLD.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wish to read the key section of our bill. It says that:

> A court order is not required for the acquisition of the contents of any communication between persons that are not located in the United States, for the purpose of collecting foreign intelligence information without respect to whether the communication passes through the United States, or the surveillance device is located within the United States.

That is the heart of the matter. That is what Admiral McConnell has requested. That is what both bills provide, both bills cure the problem that exists. There is a problem. We have to cure it. Our bill, in addition to the Bond bill, both bills do that.

Now, what are the major differences between the bills? What Admiral McConnell has indicated to us in a statement:

> The intelligence community should not be required to obtain court orders to effectively collect foreign intelligence, from foreign targets, located overseas.

That is in both bills. Except our bill is limited to foreign targets limited overseas, unlike the Bond bill, which does not have that key limitation and which, it seems to me, very clearly applies to U.S. citizens overseas. Our bill does not.

Now, if there is an incidental access to U.S. citizens, we obviously will permit that. That is not the problem. It is called minimization. We do not try to affect that. But the key difference between the Rockefeller-Levin bill and the Bond bill is that we carry out what Admiral McConnell has said repeatedly, not just in the statement I read but also in newspaper articles that he has written in the Washington Post.

What does he say there? He says that: In a significant number of cases, our intelligence agencies must obtain a court order to monitor the communications of foreigners suspected of terrorist activities who are physically located in foreign countries.

Now, our bill does that. But what does the Bond bill do? The Bond bill

goes beyond that. In its first section it says:

> Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

Any person. Does not say a foreign person. Admiral McConnell has been very precise. We have all heard him over and over again. He has been precise in his written statements, he has been precise orally. They want access, and we have to give them access.

When foreign persons communicate with foreign persons, even though, as our bill says, the communications might be routed through the United States, that is the problem that must be cured. It is cured in both bills. But we avoid doing, in our bill, what the Bond bill does, which is to say, as it very explicitly does: That if surveillance is directed at a person, which means any person—it could be a U.S. person, reasonably believed to be located outside of the United States—then it is permitted, it is authorized, in that first section of the Bond bill, 105(a). That is one of the critical differences, the most important difference, between Rockefeller-Levin, which does what the Admiral says we must do, find a way with the new technology where calls may be routed through the United States, to get to those communications by foreign persons to foreign persons.

We must do that to defend the country. We must do it. We do it. But we avoid doing what Admiral McConnell says he does not want to do, which is to get to the communications of Americans.

There you have to go for a warrant. That is what he says we should continue to do. He says it eloquently, in writing and orally. We protect that very vital interest.

There are a number of other differences. To give you one: What the Bond bill does is it says that: In terms of reviewing and auditing, the way this works, the audit will be carried out by the Attorney General of the United States, in effect auditing his own work, reviewing his own work.

On a semiannual basis, it says in section 4, the Attorney General shall inform the Select Committee, et cetera. The Attorney General shall give us a report concerning acquisitions—that is the intercepts—during the previous 6-month period. Each report shall include—then it describes all of the reports—a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence; incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence—so the Attorney General, under the Bond provision, is reporting to Congress about his own activities. What kind of an independent report is that?

So in the Rockefeller-Levin bill, we do not say to the Attorney General: Report on your own activities. We say to the inspector generals, three of them, they all have access here and all have a role: We want the independent assessment from you. We want a report to Congress not by an Attorney General reporting on his own activities but by the inspectors general who have that independence, which is so critically important.

I understand my time is up.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield 5 minutes to the distinguished Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair, and I thank the Senator from Missouri.

May I say first that I regret this debate is happening at all. I regret the news coverage of this discussion. I wish this had been able to be settled among Members of both parties in both Houses and the executive branch. If not, I wish we were debating this in executive session. Why do I regret this debate is occurring? Because we are at war. We were attacked on September 11, 2001 by a brutal, inhumane enemy who killed 3,000 Americans and intends to do so again. They tell us repeatedly. This is about gathering intelligence on that enemy.

I regret we are having this debate. I regret all the publicity, because I fear they will learn something indirectly about the methods of intelligence we have. But here we are.

I want to explain why I will vote for the McConnell-Bond proposal. I am because we are at war. I am because it has been publicly suggested there is increased terrorist activity. We have seen the Web site of threats against the United States, suggesting even threats against the Capitol, the citadel of our democracy, by these extremist Islamist terrorists. Admiral McConnell, whom everyone says they respect—I respect him; I trust him—says to us—and I will be as vague as I need to be and want to be—he is missing for a reason a tool he needs to adequately gather intelligence on the terrorist threat. He has told us what he needs to close that gap. I think we are beyond the point of debating what might be a better way to do this. I feel that particularly because Senator BOND has added the 6-month sunset.

We have a crisis. We are at war. The enemy is plotting to attack us. This proposal will allow us to gather intelligence information on that enemy we otherwise would not gather. This is not the time for striving for legislative perfection. We have the 6 months after this is adopted to work together to try to do something everyone believes is more appropriate. Concerns have been expressed about American citizens, again being as vague as we all ought to be. The fact is, we have been told authoritatively that these acts of surveillance will only touch American citizens coincidentally, and an infinitesimally small number. So you have to balance. What are your concerns about that, a program run by Admiral McConnell and an extraordinary staff at the NSA who work for us? These are our soldiers in the war against terrorism. I want to give them the power and authority they need to find out what our enemy is doing so we can stop them before they attack us.

With all respect to my colleagues, I plead with everyone, let us not strive for perfection. Let us put national security first. Let us understand if this passes, as I pray it will, and the President signs it, as I know he will if it passes both Houses, we are going to have 6 months to reason together to find something better. If we leave Washington for August recess without closing this gap in our Nation's intelligence capabilities at a time of war, it will be quite simply a dereliction of duty by this Congress. It will be a failure to uphold our constitutional responsibility to provide for the common defense.

I appeal to my friends on both sides of the aisle, let's do what we need to do now. Let's do what Admiral Mike McConnell, the Director of National Intelligence, tells us he needs to provide intelligence to our Government to enable our Government to protect us from terrorists.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. REID. I yield the Senator from Wisconsin 5 minutes.

The PRESIDING OFFICER. The Senator was yielded 5 minutes. You have 8 minutes left.

Mr. REID. Would you mind going next, Senator BOND? You have 16 minutes and we have 8.

Mr. BOND. I yield to the Senator from California 2 minutes.

Mr. REID. I will yield her 1 minute.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor.

Mr. FEINGOLD. Let me respond to what the Senator from Connecticut indicated. In times of war, we don't give up our responsibility in the Senate to review and make laws. The notion that we simply defer this to the Director of National Intelligence and whatever he says is an abdication of our duties, especially in times of war. In fact, let's remember why this is here. The Senator regrets we are debating this and some of these very important matters that are generally kept secret are being discussed. I agree. But why are they secret? Because the administration was conducting an illegal wiretapping program and somebody inappropriately blew the lid on that. That wasn't the doing of anybody in this body. That was due to the incompetence and inappropriate conduct of this administration in the first place. That is why we are here with this kind of debate, not because of anything anybody did here.

By the way, this horrible conflict we have with those who attacked us on 9/11, this conflict is something we all

agree on. Not a single Senator doesn't think we should be able to get at these foreign calls. Not a single Senator doesn't want to give the admiral what he has asked for that is reasonable. We simply want protection for the civil liberties of people who have done absolutely nothing wrong.

Let's be sure what this debate is about. I thank the majority leader and Senator ROCKEFELLER, Senator LEVIN, Senator LEAHY, and especially Senator WHITEHOUSE, who put tremendous effort into this, for trying to make this as good as possible.

I am going to vote for the Rockefeller-Leahy-Levin bill. I am concerned we are moving too fast and that we have not necessarily come up with the right answer to the problem we all recognize exists. But I am prepared to vote for this because I think it is at least a reasonable approach for addressing legitimate problems without unduly compromising the civil liberties of Americans. I do so with great reluctance, with the expectation that this is an experiment with a short expiration date, an experiment we can assess and modify as we move forward.

But we cannot pass the Bond-McConnell proposal. This bill would go way too far. It would permit the Government, with no court oversight whatsoever, to intercept the communications of calls to and from the United States, as long as it is directed at a person—any person, not a suspected terrorist—reasonably believed to be outside the United States. That means giving free rein to the Government to wiretap anyone, including U.S. citizens who live overseas, servicemembers such as those in Iraq, journalists reporting from overseas, or even Members of Congress who are overseas and can call home to the United States. This is without any court oversight whatsoever. That is unacceptable.

It goes far beyond the identified problem of foreign-to-foreign communications that we all agree on. It goes far, far beyond the public descriptions of the President's warrantless wiretapping program. What little judicial review the bill does provide is essentially meaningless. The FISA Court would decide only whether the Government certification that it has put reasonable procedures in place to direct surveillance against people reasonably believed to be abroad is ''clearly erroneous.'' That is basically a standard that is nothing more than a rubberstamp. It ignores the real issue which is protecting the rights of Americans who may be calling or e-mailing friends, family, or business partners overseas and who have done absolutely nothing wrong.

Let me point out that the so-called court review in the Bond bill will never happen, because the court only has to rule within 180 days of enactment, and there is now a sunset on the bill after 180 days.

A 6-month sunset does not justify voting for this bad version of the bill. We can't just suspend the Constitution for 6 months.

I strongly oppose the Bond bill, and I urge my colleagues to oppose it.

Mr. KENNEDY. Mr. President, there is general agreement on both sides of the aisle that we have a foreign intelligence surveillance problem that should be addressed. The difference between us is that on this side of the aisle we have consistently been willing to work cooperatively to solve the problem.

There is a model. In 1976, we faced a similar problem. The Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, known as the Church Committee, had found disturbing abuses of electronic surveillance. Congress and the administration set out to pass a law to prevent such abuses in the future, while still protecting our national security.

In 1976, I was the principal sponsor of the original bill that became FISA. When my colleagues and I first introduced the bill, we had a Democratic Congress, a Republican President, Gerald Ford, and a Republican Attorney General, Ed Levi. Attorney General Levi understood the need for Congress and the executive branch to work together. Members of the Judiciary Committee went down to the Justice Department at least four times to meet on the bill. There were discussions with Henry Kissinger, Don Rumsfeld, Brent Scowcroft, and George Bush among others.

We worked responsibly and cooperatively to develop legislation to protect our civil liberties and ensure that the Nation could use necessary surveillance. In the end, Attorney General Levi praised the bipartisan spirit of cooperation that characterized the negotiations and produced a good bill. That administration recognized the importance of working with Congress. The final bill was passed by the Senate by a vote of 95 to 1.

As this history demonstrates, our Nation is strongest when we work together for our national security. Unfortunately, the current administration has chosen a very different course. President Bush has refused all along to consult Congress on the development and implementation of its surveillance program, and now we find that it violated the law.

This is not an argument for granting expanded discretion to the administration. There is simply no basis for trusting this administration to respect the privacy of the American people. Nor do we have any confidence in the administration's competence to adopt a lawful and effective program.

When Attorney General Gonzales appeared before the Judiciary Committee in February 2006, I questioned him about FISA and the recently revealed warrantless eavesdropping program. I offered to work with him then. In fact, I asked him why he had not approached Congress sooner, given Attorney General Levi's success and given the cost of getting it wrong. He answered: ''We did not think we needed to, quite frankly.''

Well, we now know that wasn't true. I pointed out to the Attorney General at the time the benefit of having consensus on this issue and the importance of fostering a cooperative atmosphere. His answer to me was: ''I do not think that we are wrong on this.'' But they were wrong, which is why we are debating this issue at the eleventh hour today.

I told him then that the administration was sending the wrong message to the courts, that they were jeopardizing our ability to convict terrorists by using these illegal intelligence methods. The Attorney General said:

That is the last thing we want to do. We believe this program is lawful.

He was wrong again. The program is not lawful and administration needs Congress to fix it.

I did not stand alone on these issues. I had the support of many of my colleagues on the committee on both sides of the aisle. Yet the record is clear that the Attorney General repeatedly rebuffed our efforts to work with the Administration to get this legislation right the first time.

Instead, the Attorney General and the President have consistently rejected congressional input and oversight. They have repeatedly demanded that Congress rubberstamp their decisions and trust their discretion. We have seen where that leads, and we owe the Nation a better approach.

We should pass legislation today that closes the gap in current law and preserves the critical role of the Foreign Intelligence Surveillance Court in protecting our civil liberties.

Unfortunately, some of our colleagues, instead of using this opportunity to work together to safeguard the Nation, would prefer to pass yet another partisan assault on the rule of law and American civil liberties. They insist on diminishing the role of the FISA Court and increasing the unsupervised discretion of the Attorney General and the Director of National Intelligence. They want to trust Alberto Gonzales to ensure that the Government does not listen to the phone calls and read the e-mails of Americans without justification. We need to modernize FISA, not undermine it. Their proposal clearly contradicts the fundamental purpose of the initial legislation.

This administration railroaded us into war in Iraq, railroaded us into passing the PATRIOT Act and the Military Commissions Act and now it wants to railroad us into amending FISA without the time or information to consider the need properly.

We take a backseat to no one in wanting to keep our America safe. We know that our families, our friends, and our communities are at stake. We want to give our intelligence agencies the tools they need, but there is a right

way and a wrong way to do it. This eleventh-hour grandstanding by administration is the wrong way to do it.

We should remember how we reached this point. For 4 straight years, the Bush administration recklessly conducted warrantless surveillance in violation of FISA. The President acknowledged this surveillance only after it was reported in the press. Until January of this year, the administration refused to bring its surveillance program under the oversight of the FISA Court, despite the clear statutory requirement to do so.

The FISA Court has now reviewed the surveillance and has issued a ruling. It has declared that a significant aspect of the President's warantless surveillance program, in operation for 4 years without any oversight, violates the law and cannot continue. Without bipartisan congressional pressure to force that review, these and other despicable violations of the rule of law would have gone on and on. Even today, the Attorney General continues to mislead Congress on basic information about the program, and he refuses to provide the legal justifications on which he relied.

Now, after the FISA Court's clear ruling, the administration is urgently demanding that we correct their mistake. We can do that. We can reach the appropriate balance between modernizing the legislation to protect our national security and maintaining its basic protection of civil liberties. If the administration and its allies are serious about effectively protecting the country from terrorist threats, and doing so under the rule of law, they should support such legislation.

Mr. LEAHY. Mr. President, the Rockefeller-Levin bill might not be precisely the bill I would have written to fix the problem, but it is a responsible and targeted fix to the Foreign Intelligence Surveillance Act, FISA, problem that has been identified. It is an appropriate response to the need expressed by Director of National Intelligence McConnell regarding our foreign intelligence collection overseas. In addition, it tries to preserve some balance and some protections for the civil liberties of Americans by keeping the FISA Court involved when there are significant communications to and from the United States.

I have been briefed by the DNI and his staff and met with him several times recently about a problem that our intelligence agencies are having in collecting information from overseas. I have said that I am willing to fix this problem, and I am. I have proposed ways to fix this identified problem. It might not be everything he would like, his wish list, but it solves his problem. The Congress has shown that it is willing and able to reform FISA when changes are needed. We have done so many times since FISA was first passed in 1978 and at least half a dozen times since September 11, 2001. I believe such a targeted, responsible fix is justified.

To achieve that fix, I would vote for Rockefeller-Levin. We could enact the needed change immediately. As I have indicated, it is not everything that I would have wanted or drafted precisely as I would have written it. But it does the job and achieves a better balance than any viable alternative. I have worked with Senator ROCKEFELLER for weeks on this matter and appreciate his leadership on this matter, as well as that of Senator LEVIN.

The problem our intelligence agencies are having is with targeting communications overseas. We want them to be able to intercept calls between two people overseas with a minimum of difficulty. Obviously, the situation is complicated when people overseas might be talking to people here in the United States. These calls could be innocent conversations of businesspeople, tourists, our troops overseas to their families, or to other friends or family in the United States. We should want to give the Government great flexibility to listen to foreign-to-foreign calls, while still protecting privacy of innocent Americans by making sure the Government gets warrants when they are involved.

The Rockefeller-Levin bill accomplishes both of these things. It provides a very flexible standard up front for the Government—it is only required to go to the court for approval of procedures for how it will know that the targets are, in fact, overseas. There is no case-by-case application and approval of warrants for these overseas targets. There is even an initial emergency provision that would allow the Government to start these interceptions before the court has done anything.

To protect Americans, the House bill requires the Government to have guidelines—and show them to the Congress—for how it will determine when a target is having regular communications with the United States. Then they need to go back to the regular FISA procedures and show probable cause. Also, the Department of Justice inspector general must do an audit of the conduct under this bill to see how much information about people in the United States is being collected and must provide that audit to the court and Congress. Because this process has been so expedited and the issues involved are so significant, the bill would sunset in 180 days, so the Congress and the administration will have an opportunity to review it and act in a more deliberative way on these important issues.

Some things were added here that I might not have done. It now applies to all foreign intelligence targets, not just those involving international terrorism. It also does not require the court to review and approve the guidelines for handling significant communications with the United States, only the Congress sees this. These aspects trouble me. They are significant. The Director of National Intelligence has said that with these changes, the bill solves his problems and would significantly enhance our national security. This bill should resolve the matter, but this administration does not know how to take ''yes'' for an answer.

Regrettably, what has come over from the administration and has been introduced here by Senator BOND and Senator MCCONNELL goes far beyond what the DNI said he needs and I fear would be very harmful to the civil liberties of Americans. The bill the administration has proposed is a vast rewrite of the FISA law that undercuts the purposes of that act in significant ways. What the administration has done is leverage a fixable problem into passage of a wish list of ways to give the Attorney General and through him the White House virtual unfettered authority to conduct surveillance. It would take away any meaningful role for the FISA Court for calls between overseas and the United States. In fact, because it is not restricted to terrorism but involves any foreign intelligence, the administration's bill gives them far greater authority than they had claimed in their secret, warrantless surveillance program.

This bill allows Attorney General Gonzales to order surveillance. This Attorney General is in charge of decisions about when to conduct surveillance and can instruct the court to enforce those decisions. In effect, the only role for the court under this bill is as an enforcement agent—it is to rubberstamp the Attorney General's decisions and use its authority to order telephone companies to comply. The court would be stripped of its authority to serve as a check and to protect the privacy of people within the United States. Their bill likewise requires no review or audit by the Justice Department or anyone else about the number of U.S. communications that are being gathered by these orders.

I believe it is important to solve the problem our intelligence agencies are having right now. It is also essential to preserve the critical role of the FISA Court in protecting civil liberties of Americans. The House bill will do both of these things better than its alternatives.

Mrs. BOXER. Mr. President, I believe we need a short-term and long-term fix for FISA. It is important to extend the program now and then finish the job in the weeks and months ahead. Updating FISA has to be done in a meticulous way. The real work will come in the near future when there is time to debate how to update this important tool that we need to protect the American people

● Mrs. MURRAY. Mr. President, today, Senate Democrats offered the Bush administration the tools needed to fight international terrorism while upholding the very liberties that our enemies seek to destroy. That is why I support S. 2011, the Rockefeller-Levin Protect America Act.

The Rockefeller-Levin bill strengthens our ability to protect Americans, while ensuring this authority doesn't undermine our freedoms. Rockefeller-Levin gives the Director of National Intelligence the authority to obtain all essential intelligence information while preserving a role for the independent FISA Court to oversee his methods and protect our constitutional liberties.

To simply legitimize the Bush administration's warrantless wiretap program and provide unchecked authority to invade the personal privacy of all Americans is the wrong message to send to our citizens and the world.

Our Constitution provides for a separation of powers to protect our Nation and our way of life, and I, for one, do not believe we can undermine the liberty our troops have fought for generations to ensure.●

Mr. LAUTENBERG. Mr. President, I rise to speak directly to the American people to tell them that this Senator understands the risks that our country faces and I will do everything in my power to protect them from a terrorist attack.

We have a President whose words do not match his actions and who continues to accuse Democrats of being weak on terrorism and unwilling to do what it takes to secure our nation.

Nothing could be further from the truth.

New Jersey was hit on September 11th we lost 700 people on that fateful day. Not a day goes by when I don't think about it. And it is largely that day that brought me back to this Chamber.

My State is ripe with targets for terrorists, from its ports to its chemical plants and it has the most dangerous 2 miles for terrorism within it borders. So President Bush please don't lecture me on terrorism.

Instead of rhetoric, the Senate has been acting to defend our homeland. Just last month we passed a bill to fund our homeland security needs next year. It would put $38 billion into making our homeland safer and more secure.

What does the President do? He says he will veto it. Why? Because he thinks it costs too much. It costs too much? How do you measure the cost of protecting us from terror?

And President Bush is accusing others of being weak on homeland security?

The President is upset because Congress plans to put $2 billion more into homeland security than he thinks we should do. That is less money for a year of homeland security than we spend in one week in Iraq. This is a critical bill, and the President should have his pen ready to sign it, not continue to shortcut security for millions of people within our borders and within our homeland.

On Wednesday night, we saw a terrible incident when a bridge collapsed in Minnesota, causing fear, death, and injury. It brought to light the serious infrastructure needs of our country. What does President Bush do the next morning? He played raw politics and accused Congress of not working hard enough to fund our transportation needs. Again, nothing could be further from the truth.

The Senate Appropriations Committee has passed a transportation bill that is ready to go the Senate floor. It includes $5 billion for bridge replacement and rehabilitation across the Nation a full $1 billion increase over last year's amount. Guess what. The President is threatening to veto that one as well. Why? Again he thinks it costs too much to protect people domestically.

And now the administration is telling us there are gaps in our ability to gather intelligence about terrorists. So we are trying to make changes to the law dealing with the surveillance of emails and phone calls to make sure we protect the American people. And we must make those necessary changes, even if we stay here through the month of August to do so. But we must do so in a way that balances our national security with our fundamental civil rights.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. REID. When she completes her statement, we have 2 or 3 minutes left; is that right?

The PRESIDING OFFICER. That is correct.

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I remember well the day I saw the letter from Admiral McConnell. I believe the day was July 24. That is not a long time ago. But it was a kind of wake-up call to us. Because what that letter says in essence is he believes the United States is vulnerable, and he believes we need to move quickly to change FISA.

From an intelligence point of view, many of us believe the chatter is up. It is not necessarily well defined, but during the 9/11 period, this is clearly a period of heightened vulnerability. Therefore, what Admiral McConnell wants to do is be able to better collect foreign intelligence. I very much respect what has happened. I respect the bill that was put together on the Democratic side, and I respect the bill that was put together on the Republican side, which is the McConnell bill on that side.

The Senator from Wisconsin might be interested to know that some of us just met with Admiral McConnell, particularly to discuss Senator FEINGOLD's concern. There is a different point of view. A U.S. citizen in Europe is, in fact, covered. A U.S. citizen in Europe, the minimization under certain specific laws, not FISA, but precisely 12333 point something, which I cannot remember at the present time, comes into play. That U.S. citizen is subject to a warrant from the court.

This is a temporary bill. It is to fill a gap. The court has done something which has said that what has existed for decades with respect to the collection of foreign intelligence now cannot exist under the present law, and we need to change that law.

It is my intention to vote for both bills. The reason I will vote for both bills is to see that some bill acquires the 60 votes to get passed tonight. We are going out of session. There is no time. I think this is unfortunate. I received the Democratic bill about 20 minutes ago. I went into the leader's office, tried to sit down and get briefed. Up to this point I still don't understand it. I spent all afternoon on the McConnell bill. I am just beginning to understand the subtleties in it and the other laws that come into play.

This is not going to be an easy vote for anyone. But what we have to think of right now is, on a temporary basis, how do we best protect the people of the United States against a terrible attack.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I know Members are working in good faith to try and resolve this controversy. I decided to go directly to the source, the Director of National Intelligence, right off the floor here tonight monitoring the debates. I asked him what the difference was between the Rockefeller-Levin proposal and the Bond-McConnell proposal. He said to me the Rockefeller-Levin proposal has, in his view, unrealistic timelines. It creates situations of delay, and it creates other structural problems with regard to monitoring foreign-to-foreign communications which should not be the subject of lengthy court proceedings that are otherwise necessary to monitor domestic communications. The Director of National Intelligence, who is nonpartisan, an individual experienced in military matters and intelligence-gathering matters—I don't know any better source to go to who would give me an objective rendition of the differences between these two bills.

I hope colleagues will support the McConnell-Bond alternative as one that would be superior to the Rockefeller-Levin proposal and one more likely to protect the American people against terrorist attacks by those who want to do us harm.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Who yields time?

Mr. BOND. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Twelve minutes.

Mr. BOND. All right. Mr. President, first, I want to make a point clear. I had referred earlier to comments made by my good friend, the distinguished chairman of the Intelligence Committee, who thought the bill they introduced was a bill that Admiral McConnell had supported. Admiral McConnell has just released a statement saying that he appreciates the efforts to address critical gaps in our current intelligence capabilities: I cannot support the proposal. It creates significant uncertainty in an area where certainty is paramount in order to protect the country. I must have certainty

in order to protect the Nation from attacks that are being planned today to inflict mass casualties.

Really, there are a number of problems with the bill that has been presented on the other side. But the main problem is it says you do not need a court order to collect on communications between persons who are not located within the United States, and the rest of the collections are required to have a court order.

Now, this morning, I read on the Senate floor a declassified summary of an order issued by the FISA Court saying this provision, this statute, FISA, must be amended because due to uncertainties and technological changes, they are spending so much time having to work on orders for collection involving the foreign targets—foreign targets whose impact on the privacy rights of Americans is minimal.

Why is that a problem? The problem is, you do not know—if you are targeting a foreigner—whether that foreigner is going to call or communicate with another foreigner. If you do not, under the bill provided by ROCKEFELLER and LEVIN, you would have to get a court order. You would have to get a court order if you could not prove the person they were communicating with was not in the United States. And you cannot do that. That is an impossibility. That is an impossibility. You cannot have an order that tells you they are going to be foreign communications only because you do not know until you intercept the communication to where it is going.

Now, there are a number of other questions about the bill. I just have to say the concerns that have been raised—and they are legitimate privacy concerns—are addressed by minimalization procedures. Under what is called the McConnell-Bond bill—which was requested by Admiral McConnell, who modified his original proposal—under that bill, if an American citizen is caught in a communication from an al-Qaida target or another foreign target, then that person's participation is minimized. And if it is not foreign intelligence, that is completely dumped.

Under our bill, like under the previous FISA provisions, you cannot target an American citizen or a U.S. person, including people here on green cards and here in the country, without getting a court order. That is what the FISA Court was set up to do—just to protect people in the United States.

There are protections for the U.S. persons who are caught, incidentally, and they are minimized. Their names are not even identified unless there is evidence of terrorist activities.

Now, the measure we have provided, the McConnell-Bond bill, S. 1927, is one which does meet the needs that were identified by the FISA Court and by Director McConnell to clear up the backlog because there is a huge backlog they cannot work through. The FISA Court is overburdened. They cannot work through and issue the orders because of the tremendous amount of paperwork.

So we must do this now. We must do this tonight to give the intelligence communities the powers they need to collect information at a time when the threat is heightened. If we do not do that, we are in great danger.

We have to do other things, and we will come back and revisit the other things, such as dealing with carrier liability and streamlining the process. Those we must do. That is why we included the sunset at a year.

Mr. President, I yield 1 minute to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, both bills in front of us allow foreign-to-foreign intelligence collection without a court order. What is going to surprise you is, neither bill protects an American citizen abroad from being collected upon. Neither bill does. That protection comes in the President's Executive order.

What we are going to do, hopefully, is pass one of these bills tonight, which is a temporary measure that will get us past this problem of the increased traffic that is out there and the concern of an attack. Then, with cool deliberation, we are going to have to address the problem that is omitted in both bills.

Mr. President, it is my intention because of that to vote for both of the bills this evening, hoping and praying that one will pass.

The PRESIDING OFFICER (Mr. DURBIN). Who yields time?

The Senator from Missouri.

Mr. BOND. Mr. President, I yield 2 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 2 minutes.

Mr. CHAMBLISS. Mr. President, I thank the ranking member and the minority leader for the introduction of this bill.

It looks to me, Mr. President, like we have boiled this down to a specific issue of both bills saying they cover foreign-to-foreign surveillance. The problem is, when NSA has its eyes and its ears out on the wire, NSA does not know who an individual, who is in a foreign country, is calling—whether they are calling somebody foreign or whether they are calling somebody domestically.

So if they know somebody is a foreign caller, it is imperative we provide our intelligence gatherers with the opportunity to discover the conversations that are taking place between that foreign caller and whomever they may be calling, if—and only if—it involves potential terrorist activity. And we are not going to be listening in to any foreign caller unless we know they are a member of al-Qaida under current law.

So the clear difference in these two bills is this: The bill offered by Senator MCCONNELL and Senator BOND says, very clearly, that NSA will have the tools necessary to listen to any conversation from a foreign al-Qaida member to a callee anywhere, whether it is foreign or domestic, versus the bill offered by the Democrats that may say you can have a foreign-to-foreign intercept, but the problem is there is no clarity in the Democratic proposal as to who the callee is.

So it is pretty clear, if we are going to give the NSA the opportunity to protect Americans, we have to pass the bill of Senator MCCONNELL and Senator BOND.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Missouri.

Mr. BOND. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, to state the obvious: This is a very troublesome way to legislate. We have been looking at this issue for more than a year. Senator FEINSTEIN introduced legislation, and so did I. And it comes down to the last minute. We have waited in the Chamber all day.

I have just talked to the Director of National Intelligence, Admiral McConnell, who says only the Bond bill is acceptable for our security interests. I heard it from him personally. The President is reportedly prepared to sign only the Bond bill.

I have just had a hurried conversation with the senior Senator from Michigan, who has handled the negotiations on the Rockefeller bill. He has stipulated three points of concern which I think could be ironed out, Director McConnell says in the course of a couple of hours. But we are not having the couple of hours. Perhaps if both bills fail, we will be back to try this again tomorrow.

But as I listened to what Senator LEVIN has had to say: It would be better if in one spot it said ''foreign persons''—but I believe that is the intent, although it is not really explicit—I think it would be preferable if the Attorney General was not making the certification—a point I have made repeatedly—and there is an element of delay.

So to say it is not a perfect bill is again to state the obvious. But I think it is time we have to act and, therefore, I am going to support the Bond bill.

The PRESIDING OFFICER. Who yields time?

Mr. REID. Mr. President, I yield 1 minute to the Senator from Maryland, Ms. MIKULSKI, leaving me with 1 minute.

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

Ms. MIKULSKI. Mr. President, our first goal as members of Congress is to protect and safeguard the American people against terrorist attacks. I take

my oath to do so very seriously. That is why I support reform of the Foreign Intelligence Surveillance Act. As we approach the anniversary of September 11, this is a time for more intense vigilance. Real threats to our country remain.

As a member of the Senate Intelligence Committee, every day I see how terrorists want to harm the American people. Terrorists still have a predatory intent to harm the United States. Reforming FISA today provides the intelligence community the tools it needs to disrupt ongoing terrorist operations against the United States.

We have two proposals to consider tonight. Both are temporary ways ahead. Each proposal takes important steps to secure the safety of our country by reforming this important law. The Rockefeller-Levin proposal is desirable, while the McConnell proposal is acceptable.

Each proposal provides the intelligence community the key tools it needs to disrupt terrorist plans and intentions, while retaining the legal safeguards that protect the rights of every American.

These proposals are consistent with the principles that the Director of National Intelligence requested to improve the FISA process: enhance intelligence collection against terrorist operatives communicating to each other overseas—foreign to foreign; provide legal safeguards to protect the rights of American citizens—consistent with law, a warrant is still required to monitor communications of American citizens inside the United States—provide prospective liability protection to private-sector companies assisting our efforts in keeping this country safe.

These proposals are time limited. A more comprehensive and permanent solution is necessary. As a member of the Intelligence Committee, I will work with my colleagues on a more comprehensive and permanent solution to reforming FISA.

Al-Qaida continues to want to inflict damage on our country. This proposal gives important tools to the intelligence community to disrupt the terrorists' plans and intentions, while safeguarding the rights and civil liberties of American citizens.

When it comes to protecting America, we don't belong to a political party) we belong to the red, white, and blue party. We are Americans first.

Mr. President, I am a member of the Intelligence Committee, and like all Members, I take my oath to defend this country against all enemies, foreign and domestic, very seriously. Real threats to our country remain. As we approach the anniversary of September 11, this is a time for more vigilance.

We have two proposals tonight. The Rockefeller-Levin proposal is the most desirable, while the McConnell proposal is also acceptable. These proposals are consistent with the principles that the DNI requested to improve the FISA process.

It enhances intel collection against terrorist operatives communicating overseas foreign to foreign. At the same time, it does provide legal safeguards to protect the rights of Americans, consistent with law. A warrant is still required. I think it is time to vote. I think it is time to protect America.

Mr. REID. Mr. President, I yield Senator WHITEHOUSE 1 minute.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 1 minute.

Mr. WHITEHOUSE. Mr. President, the question we face fundamentally here is, are we a nation under the rule of law? A nation of laws or a nation of men? We have heard wonderful things said about Admiral McConnell tonight, and I share this body's admiration for Admiral McConnell. But we are not here judging him, we are here judging a piece of legislation.

The piece of legislation that we are asked to judge puts exclusive rights in the Presidency to determine what gets collected against Americans overseas and what gets collected against Americans in this country who have communications from overseas that are intercepted. And it allows that determination to be made, as was just said, pursuant to a Presidential Executive order.

We are a nation of separated powers. We established the FISA Court to have this authority. The court should oversee those processes. That is what this is about.

The PRESIDING OFFICER. Who yields time?

The Senator from Missouri.

Mr. BOND. Mr. President, I yield the remaining time on this side to the distinguished minority leader.

Mr. MCCONNELL. Mr. President, there is one thing I think virtually everybody in the room will agree with, and that is that we can't leave here without a bill signed into law by the President of the United States. There is only one of these proposals before us that he will sign. He indicated earlier today that he will only sign a bill that Admiral McConnell, whom we all profess to greatly respect, believes will get the job done, at least for the next 6 months. There is one proposal which does that, and only one.

So if we don't want to be back here tomorrow and next week still dealing with this problem—and I think we certainly agree we cannot leave town without addressing it—there is only one way to get a Presidential signature, and that is for the Bond-McConnell proposal, upon which we will vote in a moment, to get 60 votes. That is the only way to get the job done. There may be merit in both proposals, but that is not the way Admiral McConnell sees it. He enjoys widespread respect throughout this body. If we want to get the job done and get the President's signature, the Bond-McConnell proposal is the one that should be supported.

I yield the floor.

Mr. REID. I yield back any remaining time.

Mr. MCCONNELL. Is there any time remaining on this side?

The PRESIDING OFFICER (Mr. WHITEHOUSE). There is no time remaining.

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

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. HARKIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Washington (Mrs. MURRAY), are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''no.''

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. LUGAR), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Kentucky (Mr. BUNNING) would have voted ''yea.''

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

The result was announced—yeas 60, nays 28, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—60

Allard	Dole	McConnell
Barrasso	Domenici	Mikulski
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Brownback	Graham	Pryor
Burr	Grassley	Roberts
Carper	Hagel	Salazar
Casey	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Smith
Cochran	Inouye	Snowe
Coleman	Isakson	Specter
Collins	Klobuchar	Stevens
Conrad	Kyl	Sununu
Corker	Landrieu	Thune
Cornyn	Lieberman	Vitter
Craig	Lincoln	Voinovich
Crapo	Martinez	Warner
DeMint	McCaskill	Webb

NAYS—28

Akaka	Brown	Clinton
Baucus	Byrd	Dodd
Biden	Cantwell	Durbin
Bingaman	Cardin	Feingold

Kennedy	Obama	Stabenow
Kohl	Reed	Tester
Lautenberg	Reid	Whitehouse
Leahy	Rockefeller	Wyden
Levin	Sanders	
Menendez	Schumer	

NOT VOTING—12

Alexander	Gregg	Lott
Boxer	Harkin	Lugar
Bunning	Johnson	McCain
Dorgan	Kerry	Murray

The PRESIDING OFFICER.

Under the previous order, 60 Senators having voted in the affirmative, the bill, as amended, is passed.

The bill (S. 1927), as amended, is as follows:

S. 1927

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protect America Act of 2007''.

SEC. 2. ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105 the following:

''CLARIFICATION OF ELECTRONIC SURVEILLANCE OF PERSONS OUTSIDE THE UNITED STATES

''SEC. 105A. Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

''ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS CONCERNING PERSONS LOCATED OUTSIDE THE UNITED STATES

''SEC. 105B. (a) Notwithstanding any other law, the Director of National Intelligence and the Attorney General, may for periods of up to one year authorize the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if the Director of National Intelligence and the Attorney General determine, based on the information provided to them, that—

''(1) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section concerns persons reasonably believed to be located outside the United States, and such procedures will be subject to review of the Court pursuant to section 105C of this Act;

''(2) the acquisition does not constitute electronic surveillance;

''(3) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

''(4) a significant purpose of the acquisition is to obtain foreign intelligence information; and

''(5) the minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

''This determination shall be in the form of a written certification, under oath, supported as appropriate by affidavit of appropriate officials in the national security field occupying positions appointed by the President, by and with the consent of the Senate, or the Head of any Agency of the Intelligence Community, unless immediate action by the Government is required and time does not permit the preparation of a certification. In such a case, the determination of the Director of National Intelligence and the Attorney General shall be reduced to a certification as soon as possible but in no event more than 72 hours after the determination is made.

''(b) A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

''(c) The Attorney General shall transmit as soon as practicable under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 105B.

''(d) An acquisition under this section may be conducted only in accordance with the certification of the Director of National Intelligence and the Attorney General, or their oral instructions if time does not permit the preparation of a certification, and the minimization procedures adopted by the Attorney General. The Director of National Intelligence and the Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

''(e) With respect to an authorization of an acquisition under section 105B, the Director of National Intelligence and Attorney General may direct a person to—

''(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition in such a manner as will protect the secrecy of the acquisition and produce a minimum of interference with the services that such person is providing to the target; and

''(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such person wishes to maintain.

''(f) The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (e).

''(g) In the case of a failure to comply with a directive issued pursuant to subsection (e), the Attorney General may invoke the aid of the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person to comply with the directive if it finds that the directive was issued in accordance with subsection (e) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.

''(h)(1)(A) A person receiving a directive issued pursuant to subsection (e) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).

''(B) The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 48 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.

''(2) A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with such directive.

''(3) Any directive not explicitly modified or set aside under this subsection shall remain in full effect.

''(i) The Government or a person receiving a directive reviewed pursuant to subsection (h) may file a petition with the Court of Review established under section 103(b) for review of the decision issued pursuant to subsection (h) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition for a writ of certiorari by the Government or any person receiving such directive, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

''(j) Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(k) All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(l) Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with a directive under this section.

''(m) A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.''.

SEC. 3. SUBMISSION TO COURT REVIEW AND ASSESSMENT OF PROCEDURES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105B the following:

''SUBMISSION TO COURT REVIEW OF PROCEDURES

''SEC. 105C. (a) No later than 120 days after the effective date of this Act, the Attorney General shall submit to the Court established under section 103(a), the procedures by which the Government determines that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The procedures submitted pursuant to this section shall be updated and submitted to the Court on an annual basis.

''(b) No later than 180 days after the effective date of this Act, the court established under section 103(a) shall assess the Government's determination under section 105B(a)(1) that those procedures are reasonably designed to ensure that acquisitions

conducted pursuant to section 105B do not constitute electronic surveillance. The court's review shall be limited to whether the Government's determination is clearly erroneous.

''(c) If the court concludes that the determination is not clearly erroneous, it shall enter an order approving the continued use of such procedures. If the court concludes that the determination is clearly erroneous, it shall issue an order directing the Government to submit new procedures within 30 days or cease any acquisitions under section 105B that are implicated by the court's order.

''(d) The Government may appeal any order issued under subsection (c) to the court established under section 103(b). If such court determines that the order was properly entered, the court shall immediately provide for the record a written statement of each reason for its decision, and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Any acquisitions affected by the order issued under subsection (c) of this section may continue during the pendency of any appeal, the period during which a petition for writ of certiorari may be pending, and any review by the Supreme Court of the United States.''.

SEC. 4. REPORTING TO CONGRESS.

On a semi-annual basis the Attorney General shall inform the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning acquisitions under this section during the previous 6-month period. Each report made under this section shall include—

(1) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under section 105B, to include—

(A) incidents of non-compliance by an element of the Intelligence Community with guidelines or procedures established for determining that the acquisition of foreign intelligence authorized by the Attorney General and Director of National Intelligence concerns persons reasonably to be outside the United States; and

(B) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issue a directive under this section; and

(2) the number of certifications and directives issued during the reporting period.

SEC. 5. TECHNICAL AMENDMENT AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''; and

(2) in paragraph (2), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 105 the following:

''105A. Clarification of electronic surveillance of persons outside the United States.

''105B. Additional procedure for authorizing certain acquisitions concerning persons located outside the United States.

''105C. Submission to court review of procedures.''.

SEC. 6. EFFECTIVE DATE; TRANSITION PROCEDURES.

(a) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this Act shall take effect immediately after the date of the enactment of this Act.

(b) TRANSITION PROCEDURES.—Notwithstanding any other provision of this Act, any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall remain in effect until the date of expiration of such order, and, at the request of the applicant, the court established under section 103(a) of such Act (50 U.S.C. 1803(a)) shall reauthorize such order as long as the facts and circumstances continue to justify issuance of such order under the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the applicable effective date of this Act. The Government also may file new applications, and the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall enter orders granting such applications pursuant to such Act, as long as the application meets the requirements set forth under the provisions of such Act as in effect on the day before the effective date of this Act. At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)), shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act. Any surveillance conducted pursuant to an order entered under this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as in effect on the day before the effective date of this Act.

(c) SUNSET.—Except as provided in subsection (d), sections 2, 3, 4, and 5 of this Act, and the amendments made by this Act, shall cease to have effect 180 days after the date of the enactment of this Act.

(d) AUTHORIZATIONS IN EFFECT.—Authorizations for the acquisition of foreign intelligence information pursuant to the amendments made by this Act, and directives issued pursuant to such authorizations, shall remain in effect until their expiration. Such acquisitions shall be governed by the applicable provisions of such amendments and shall not be deemed to constitute electronic surveillance as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)).

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

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

The motion to lay on the table was agreed to.

VOTE ON S. 2011

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

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

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. DORGAN), the Senator from Iowa (Mr. HARKIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Washington (Mrs. MURRAY) are necessary absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Kentucky (Mr. BUNNING), the Senator from New Hampshire (Mr. GREGG), the Senator from Mississippi (Mr. LOTT), the Senator from Indiana (Mr. LUGAR), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Kentucky (Mr. BUNNING) would have voted ''nay.''

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

The result was announced—yeas 43, nays 45, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—43

Akaka	Feingold	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Inouye	Reed
Biden	Kennedy	Reid
Bingaman	Klobuchar	Rockefeller
Brown	Kohl	Salazar
Byrd	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Lincoln	Webb
Clinton	McCaskill	Whitehouse
Conrad	Menendez	Wyden
Dodd	Mikulski	
Durbin	Nelson (FL)	

NAYS—45

Allard	DeMint	McConnell
Barrasso	Dole	Murkowski
Bennett	Domenici	Pryor
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Burr	Graham	Shelby
Chambliss	Grassley	Smith
Coburn	Hagel	Snowe
Cochran	Hatch	Specter
Coleman	Hutchison	Stevens
Collins	Inhofe	Sununu
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lieberman	Voinovich
Crapo	Martinez	Warner

NOT VOTING—12

Alexander	Gregg	Lott
Boxer	Harkin	Lugar
Bunning	Johnson	McCain
Dorgan	Kerry	Murray

The PRESIDING OFFICER. Under the previous order, 60 Senators not having voted in the affirmative, the bill is placed on the calendar.

The majority leader.

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

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST—H.R. 1495

Mr. REID. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to the consideration of the conference report to accompany H.R. 1495, WRDA; that it

be considered under the following limitations: that there be 4 hours of debate on the conference report with the time equally divided and controlled between the two leaders or their designees; that upon the use or yielding back of time, the Senate proceed to vote on adoption of the conference report, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. FEINGOLD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota is recognized.

AUTHORIZING ADDITIONAL FUNDS FOR EMERGENCY REPAIRS AND RECONSTRUCTION OF THE INTERSTATE I–35 BRIDGE

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3311, which was received from the House.

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

The legislative clerk read as follows:

A bill (H.R. 3311) to authorize additional funds for emergency repairs and reconstruction of the Interstate I–35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes.

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

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

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

The amendment (No. 2654) was agreed to, as follows:

(Purpose: To improve expanded eligibility for transit and travel information services)

In section 1112(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (as added by section 3), strike subparagraph (B) and insert the following:

''(B) use not to exceed $5,000,000 of the funds made available for fiscal year 2007 for Federal Transit Administration Discretionary Programs, Bus and Bus Facilities (without any local matching funds requirement) for operating expenses of the Minnesota State department of transportation for actual and necessary costs of maintenance and operation, less the amount of fares earned, which are provided by the Metropolitan Council (of Minnesota) as a temporary substitute for highway traffic service following the collapse of the Interstate I–35W bridge in Minneapolis, Minnesota, on August 1, 2007, until highway traffic service is restored on such bridge.

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

The bill (H.R. 3311) was read the third time and passed.

Mr. COLEMAN. Mr. President, my colleague from Minnesota is here. I will yield to her if she wishes to proceed first.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I think everyone in this Chamber and the country and the world is aware of the tragedy that befell our State a few days ago. This is a bridge that is not just in my backyard, it is actually in my front yard. It is only 8 blocks away. It is one of the most well-traveled bridges in our State.

Senator COLEMAN and I were on the ground and saw the great damage yesterday. When I looked down and saw that miracle bus on the precipice and I thought about the fear in the eyes of those little children as they watched as the concrete and the road basically fell down below them, I couldn't even imagine what they went through.

But then I met the heroes, the people who dove in the water over and over again looking for survivors. The death toll would have been so much worse if our community had not come together—the police, fire personnel, emergency personnel, and ordinary citizens—to save the lives of our people.

Today we thank our colleagues because it is good news that they stood by us in a bipartisan way to help the people of our State. The vote is good news at the close of a week that has brought so much heartbreak to our State. This was, as I said, the most heavily traveled bridge in our State, and our people and our businesses depend on it.

Today in the Senate, as well as in the House of Representatives, the Congress voted to give us the opportunity to access the funds we are going to need to repair this bridge.

There was also a focus on transit money, which is so important. The day we got into Minnesota, only 12 hours after this happened, our State had already put on 25 extra buses. They had billboards showing people the routes to go. It was an absolutely extraordinary effort. They were prepared. But I don't think anyone, in any State, can ever be prepared for a tragedy such as this.

I thank all my colleagues at the close of a very long week for their words of support. Our thoughts and our prayers are with the victims and with their families. Today, the Congress stood tall and proud and came immediately to their aid.

Mr. President, I yield the floor to my colleague from Minnesota.

Mr. COLEMAN. Mr. President, my colleague from Minnesota has described the spirit of a people confronted with great tragedy. It was horrible to be there by that bridge and see those cars, some in the water, others that had burst on fire—a tractor trailer—to see a school bus on the precipice. I think it had dropped 20 feet. Had it gone a little further to the side, it would gone over the edge. Had it gone a little further forward, it would have been caught between crashing portions of steel and concrete. Had it gone another distance, it would have been in the water. Yet every one of those 60 kids walked away.

We saw tragedy. There are those who have lost their lives and suffered great pain, but we also saw miracles. We saw the reaction of a community that came together at every level—the first responders, the citizens who came together to jump in the water to try and help folks who were in situations that were hard to understand.

In addition to that, when Senator KLOBUCHAR and I got there early in the morning, we sat in on a briefing with the Governor and the mayor and the first responders, the county commissioners, city council members—some Democrats, some Republicans. It didn't matter.

I sat there as a former mayor remembering what it was like on 9/11, remembering how unprepared we were on 9/11. And after 9/11, as a city, we tried to take stock and recognize that our first responders weren't tied into what was going on at hospitals, and various police and fire from different communities could not communicate. What we did is we went about the process of training and training and training, preparing and preparing and preparing, and it came together. I watched in the city of Minneapolis, and as a former mayor I took pride in the way the people responded.

I think the Nation saw it, I think the world saw it, and it made me proud to represent Minnesota.

I say that because I saw the same spirit in the Senate tonight. The people in Minneapolis have some great needs. My colleague in the House, Congressman OBERSTAR, put forth a plan that would provide authorization to rebuild the bridge. There was also provided some extra money on the table to deal with some very immediate needs.

I was there when the Secretary of Transportation made the pledge that ''we are going to be there to help,'' and we had some challenges then in moving that forward. There were some technical issues. But what I found along the way was my colleagues on both sides of the aisle simply said, how can we help? How can we get this done? The chairman of the Budget Committee a little while ago discovered there was one minor technical issue. He said, we are going to take care of this.

I got a call today from the director of the Environmental Protection Agency, the Administrator. I got a call yesterday from the head of the SBA. At the scene yesterday we had the head of the Transportation Safety Board. We had the Secretary of Transportation, the highway administrator. They were all there. Everyone had come together. And on the floor of the Senate I saw that tonight, that spirit, and I simply say thank you to my colleagues. On behalf of the people of Minnesota and the

people of Minneapolis, I say thank you for the support you have shown and the spirit in which you have come together.

At times, there is so much rancor in our Nation today—this partisan divide. It is so uplifting to be in this Chamber to see my colleagues on both sides of the aisle come together, and so I say thank you.

Let me end by asking that we not forget there has been a great tragedy; that lives have been lost. Let us keep the families of those who have lost loved ones in our prayers. Let us make sure we continue in the effort to ensure that the resources are there to rebuild, and let us do it quickly. Let us do those things to expedite the process. This is a major thoroughfare, a major piece of the transportation system in the State of Minnesota. We need to get the money back to Minnesota and get the people on the ground who can get the work done.

We can do it, and we can do it quickly. We will rebuild this bridge, we will rebuild quickly, we will find out what caused this terrible, terrible tragedy, and we will keep those who have suffered loss in our prayers.

Mr. President, I yield the floor.

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

EXTENSION OF TEMPORARY PROTECTIVE STATUS FOR LIBERIANS

Mr. REED. Mr. President, let me first begin by commending Senators COLEMAN and KLOBUCHAR for their very aggressive and appropriate response to a crisis in their home State of Minnesota. We were proud, all of us, to join with the Senators in helping their people in the face of great need.

This is interesting, because I rise for the moment to speak about another measure which both Senator COLEMAN and Senator KLOBUCHAR have joined with me as cosponsors of, and that is the temporary protective status for Liberians. The Presiding Officer, Senator WHITEHOUSE, is also a cosponsor, along with Senators KERRY and LEAHY. It is a bipartisan measure. It is in response to a situation where there are thousands of Liberians here legally, but they are in danger of being deported because their status could change by October 1.

The House of Representatives earlier this week passed unanimously by voice vote H.R. 3123, which would extend for 1 year their temporary protected status. In fact, the minority leader, Mr. BLUNT, was the key leader in this effort, along with our colleague from Rhode Island, Congressman PATRICK KENNEDY, and I again thank Senators COLEMAN and KLOBUCHAR, and all the cosponsors.

The Liberian individuals we are talking about were in the United States in the late 1980s and early 1990s when a brutal civil war broke out in Liberia. They could not go home, and this country granted them protective status. That status, in one form or another, has been continued for now almost 15, 16 years. There are many families of Liberians in this country whose children are American citizens—in fact, who are about on the verge of college or even older.

Today, Liberia has made some progress. It has a democratically elected president. She is a remarkable woman, leading her nation. But, still, it is not a country that is ready to accept individuals who are in the United States, who are part of our community, who have American children, and who are contributing to our communities. We should, I think, give them the opportunity to make a choice of whether they should stay here or go back to their homeland of Liberia.

Every year they face a precipice that comes on October 1, when they worry whether their status will be extended; when they worry whether they will have to leave children behind, give up their jobs, leave their community and be lifted up, literally, to go back to a country which is, quite frankly, not ready to accept them and to use their talents. So each year we have been able to, either through administrative decision or through our efforts here, extend their stay. I urge that my colleagues consider taking up H.R. 3123, and I requested on behalf of my cosponsors a unanimous consent to do that. I am told that on the Democratic side there were no objections, but, apparently, there are some objections on the other side. I want to make it clear to all my colleagues I will renew this request time and time again when we return in September.

We have to act before October 1. It would be unfair, unjust, and unwise not to grant this exemption. It was accepted on a bipartisan basis overwhelmingly in the other body, and I think we should do the same here in the Senate. I urge any of my colleagues who have questions—and I think at this juncture there are many who might have legitimate questions—please, I would be happy to answer them. I would be happy to respond. I believe I can make a compelling case that in terms of fairness, in terms of equity, in terms of recognizing what these individuals have done to contribute to communities all across this country, they should be granted at least 1 more year. This is not a permanent adjustment, this is an additional year.

Let me stress one thing also. We have had a great deal of discussion in this Congress about immigration. These individuals are legally here in the United States, and they have been given the opportunity to work, they pay taxes, and they are not qualified for any social benefits. I am very proud of Rhode Island because we have a large community, relatively speaking, and they have become extraordinarily productive members of our community. So I feel very strongly, and I know my colleague, the Presiding Officer, does, that we are going to do all we can over the several weeks before October 1 to make sure this is adopted; that we follow the other body in doing so. I don't want anyone to mistake my objection to other provisions that are going forward. I am sincerely committed to getting this done. I hope we get it done, and I thank the Presiding Officer for his cosponsorship and leadership.

I yield the floor.

Mr. DODD. Mr. President, the Senator from Rhode Island has been so persuasive in his argument, I ask that he add me as a cosponsor to the bill.

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

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

The Senator from Connecticut is recognized.

INFRASTRUCTURE

Mr. DODD. Mr. President, both our colleagues from Minnesota have left the floor, but I join with my colleague from Rhode Island and others here in expressing our regrets and our condolences to the people of Minnesota for the tragedy that State has gone through with the collapse of the highway over the Mississippi River. Certainly all of us extend our sympathies to those who lost loved ones and those who were injured. We in Congress will do whatever we can to help out in that situation, as all of us have at one time or another stood in this Chamber and asked for help for our States because of a tragedy that has occurred. It is very much in keeping with the tradition of this body to respond to tragedies such as the one Minnesota has experienced.

I want to take a moment, however, and urge my colleagues during the next few weeks to consider an important bill to try to address the growing problem of deteriorating infrastructure across our nation. For nearly 2 years, the Senator from Nebraska and I, Senator HAGEL, have been working on this bill, along with the Center for Strategic and International Studies, Felix Rohatyn, who has been very involved in the issues of New York City, and our former Senate colleagues Warren Rudman and Bob Kerrey.

The numbers are staggering. There are some 160,000 bridges of the 900,000 in our country that are deficient, to put it mildly. We saw what happened in Minnesota. There are 614 transit systems in deep need of repair. One-third of all our highways are in need of significant repair and improvement. The water systems and wastewater systems in the United States are, on average, almost 100 years old. Clearly, the ability of our appropriations process to maintain the needed infrastructure for our country is inadequate. We all know that. So we have spent time over the last 2, 2½ years working with people on Wall Street and others to come up with ideas on how we might attract capital to the area of infrastructure development.

Ironically, we had talked about delaying this announcement until September, but at the suggestion of Senator HAGEL, we decided Wednesday morning to make the announcement before we left for the August break. I think we had four members of the press in the gallery to cover the initial announcement of this year-and-a-half long effort. And of course by 5 or 6 o'clock that afternoon, we had heard the news of what happened in Minneapolis, which heightened the country's awareness of a problem that was well-known to those of us looking into this over the years.

This should never have happened in the United States. We have been successful over the years because we have understood the relationship of strong infrastructure systems, wastewater treatment systems, highways, bridges, and transit systems, to our ability to grow economically. Of course, some of the major efforts that have increased the prosperity of our country have been big ideas in infrastructure. Certainly the interstate highway system, under Dwight Eisenhower, is a classic example of a project that dramatically improved the economy of our Nation more than 50 years ago.

At any rate, there are a number of examples, and I hope my colleagues will look at this critically important legislation we have presented for their consideration. We look forward to further examining how better to deal with the large problems facing us when we reconvene this fall. As many of my colleagues may know, a $1 billion investment, whether public or private money, would generate as many as 40,000 jobs. So, in addition to addressing major deficiencies in our infrastructure, it will also spur economic development and provide needed work for those in the construction fields and trades.

Again, this is an important issue, and one that is unfortunately receiving more attention than it would otherwise, except for the tragedy in Minnesota. In my home State of Connecticut, we went through a similar tragedy, as my colleague from Rhode Island may recall, on Route 95 along the Mianus River, the corridor running through his State and mine, down to Florida. A whole section of that road in western Connecticut collapsed. Four people lost their lives on that day when the Mianus River bridge fell. So we relate to and understand what has happened in Minnesota.

Again, our invitation is to take a look at this. It is an idea, a big idea, a large idea, creatively financed to be able to do something serious about this growing problem. It is a problem we are going to be hearing more and more about if we fail to take the necessary steps to improve this infrastructure. We must work to construct what needs to be constructed and put our feet back on the ground.

I thank my colleagues.

I am going to make some unanimous consent requests here.

UNANIMOUS-CONSENT REQUEST—H.R. 327

Mr. DODD. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 327 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. Reserving the right to object, the Senator from Connecticut is going to put forward a number of unanimous-consent requests. Because of the lateness of the hour, we have a number of Members on our side who, on many of these unanimous-consent requests that he will propound, have concerns about those, and so they have not been cleared on this side. I am going to object to this and to some of the others he will be putting forward.

I object.

UNANIMOUS-CONSENT REQUEST—H.R. 1538

Mr. DODD. Mr. President, I ask unanimous consent that if the Senate receives the message from the House on H.R. 1538, the Wounded Warrior bill, with a request for a conference, the Senate agree to the request and the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. Reserving the right to object on this, this bill passed the Senate by unanimous consent. This is something everybody on our side supports. It includes a pay raise for members of our military. But again, until such time as we receive this message from the House—at that time, I guess I will ask the majority to renew that request. Until that happens, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST—S. 1257

Mr. DODD. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to the consideration of Calendar No. 257, S. 1257, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST—H.R. 3159

Mr. DODD. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 3159, the Dwell Time Act, the bill be considered as having been read three times, passed, and the motion to reconsider be laid on the table without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object.

UNANIMOUS-CONSENT REQUEST—S. 742

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 321, S. 742, that the committee-reported amendment be considered and agreed to, the bill as amended be read a third time, passed, and the motion to reconsider be laid on the table and any statements be printed in the RECORD as if read.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object.

UNANIMOUS-CONSENT REQUEST—S. 1785

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 320, S. 1785, that the committee-reported amendment be considered and agreed to, the bill be read a third time, passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS-CONSENT REQUEST—S. 558

Mr. DODD. Last, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 93, S. 558, that the amendment at the desk be considered and agreed to, the committee-reported substitute as amended be agreed to, the bill, as amended, be read a third time, passed, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. THUNE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DODD. 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. MCCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

SIX POINT PLAN

Mr. MCCONNELL. Mr. President, 7 months ago I opened this session by reminding myself and my colleagues that

the work we do and the way we do it will be judged not only by the voters but by history.

Future generations are not likely to remember our names, but they will inherit the laws that we pass, the problems we ignore, and the solutions we leave behind. So I rise tonight to take stock of how we have done, to offer an honest assessment of our work, and to propose a course of correction.

When the gavel fell in January, a new party had taken over. It had a simple six-point plan of action involving a list of items that were thought to have popular support. As the majority whip put it last fall, Democrats did not want to overpromise, so they came up with a list that was concise, understandable, and attainable.

He added that if the Democrats were fortunate enough to win the majority, they would be judged primarily on their ability to deliver on those six legislative goals. So by the majority's own standard, our report card should begin with a so-called 6 for '06. They have had more than a half a year to enact them, and so it is fair to ask: How have they done?

We started with lobby reform. As an early gesture of the bipartisanship I hoped would mark this session, I cosponsored the bill along with the majority leader. But less than 2 weeks into the session, the majority decided to cut off debate. It forced an early vote on an unfinished bill, and it failed. After Republicans were allowed to add a vital amendment that protected the grassroots organizations from burdensome oversight, we voted again, and the bill passed easily 96 to 2.

Minimum wage was next. Republicans supported an increase that included tax relief for the business owners who would have to pay for it. At first the majority balked. They wanted a bill without any tax relief, without any Republican input. It failed. But when they finally agreed to cooperate by including tax relief for small businesses, the bill sailed through by a vote of 94 to 3. Four weeks, two accomplishments, a good start.

Then we turned to the 9/11 bill, and here the tide began to turn. Republicans supported this bill from the start. We saw it as a welcome opportunity to strengthen security, but the majority rejected our efforts to improve it with amendments, and then weakened the bill by inserting a dangerous provision at the insistence of their labor union supporters.

They wanted to give airport security workers at U.S. airports veto power over the Government's rapid response plan to a terrorist attack. It was an absurd request.

Congress rejected a similar provision 5 years earlier on the grounds that it threatened national security. The President promised to veto it this time around as well. The bill ended up passing the Senate, and the provision was ultimately stripped in conference. But by refusing input at the start, both parties would have to wait until just last week to finish this important bill, and the centerpiece of the Democratic plan for improving national security would sit on the shelf literally for months.

Now, there is a pattern here. When the majority has agreed to let Republicans participate and shape legislation, we have achieved good bipartisan results. When they have blocked that cooperation, they have failed. But just like a fly that keeps slamming its head into the same windowpane trying to get outside, the Democratic majority has spent most of the year since those small, early gestures at cooperation trying and failing to advance its agenda by insisting on the path of political advantage.

The problem took root early on. Soon after the 9/11 bill came the first attempt to set a timetable for withdrawing U.S. troops from Iraq. Our Democratic friends knew it had no chance of passing the Senate, let alone being signed into law.

Two weeks earlier, they had forced a vote on the Petraeus plan for securing Baghdad and lost. The President had made clear his opposition to timelines, and Republicans insisted that Congress should not be in the business of literally micromanaging a war.

Yet our friends on the other side persisted anyway, and the first timeline vote failed. It was followed by 14 more political messaging votes on the war, votes that promised to have no practical impact on our military conduct. The Senate would spend 2 months debating legislation that in every case was bound to fail. For the entire spring and summer, the majority insisted on political votes, culminating in the theatrical crescendo of an all-night debate that even Democrats admitted was a stunt.

What seems to have happened here is that at some point in February, after the minimum wage vote, the political left put a hand on the steering wheel, and the unfortunate result was that nearly 5 months would pass before a single item on the 6 for '06 agenda would become law, and even that had to be tacked on to a must-pass emergency spending bill that the Democrats had been slow-rolling for months.

Now it was during those early months that an alternative, harder edged, 6 for '06 agenda seemed to emerge. Indeed, the biggest Senate fights this year have not been over the original 6 for '06 at all. They revolved around the policy proposals of the far left. Fortunately, Republicans have held together to keep these bad ideas from becoming law.

For example, they wanted to eliminate secret ballot elections from union drives. They wanted to spend valuable floor time on a nonbinding resolution about the Attorney General, despite weeks of print and television interviews on the topic already.

They wanted to revive the so-called fairness doctrine, a kind of Federal speech code that was abolished more than two decades ago because it violates the first amendment. They even proposed closing the terrorist detention facility at Guantanamo Bay and sending the inmates to the States.

Then there were the politically motivated investigations which, between the House and Senate, break down to about six hearings a day since the first day of the session. Some seemed to see a plot being hatched behind every filing cabinet in Washington. Others seem ready to hold a White House sofa in contempt for bad fabric. And, of course, there was the endless political grandstanding on Iraq that I have already mentioned.

Now, predictably, this alternative agenda went nowhere. In the effort to get both, they ended up with neither. Editorial writers started to grumble about the lack of achievement. The public took note, too, sending the new Congress's approval ratings to new subterranean lows.

The lesson that emerged was clear. Politics yields headlines; cooperation yields results.

Republicans warned the other side about the consequences of unilateralism early on. We argued for months that the majority had been engaged in a months-long power play by invoking cloture with astonishing frequency. My staff commissioned a CRS study on the issue and found that the majority was on pace to shatter the record for cloture filings in a single Congress.

Yet the cloture stories that started to appear argued that record cloture filings were somehow the fault of the Republicans, as if we had forced the majority to try to cut off debate. This was classic spin, as anyone who has been in the Senate for more than a week will tell you. The majority knows that more than 40 cloture votes in 6 months is not a sign of minority obstruction. It is a sign of a majority that does not like the rules.

The opportunity costs of this failed strategy have been immense. Because it has refused to cooperate with the other side, the majority hasn't brought a single piece of legislation to the floor that would reduce the income tax burden on working Americans. The Senate has not done a thing to address entitlements, despite a looming financial catastrophe. It has done nothing to address the rising cost of health care. Only 1 appropriations bill out of 12 has passed the Senate, and none has been signed into law.

On the first day of the session, the majority whip said the American people had put Democrats in the majority to find solutions, not to play to a draw with nothing to show for it. Yet at times over the last 7 months those words have seemed quaint. The Democratic majority had the right idea early on. It made an early mistake, in my opinion, by succumbing to a round-the-clock political campaign. As any sailor knows, a small deviation at the

start takes you far off course over time.

Over the last week, we have seen some conspicuous signs of bipartisan cooperation, including tonight, when the majority chose the road of cooperation to fix a gap in our national intelligence before we left for the August recess. Americans are grateful to the majority for joining us on this critical issue. Under the leadership of my friend the majority leader, Congress has acted on the sound principle that cooperation is a better recipe for success than confrontation and political theater. All of us should be glad about that.

We have seen that we can accomplish good things by working together and cooperating on legislation that Americans support. Politics certainly has its place, but it doesn't steer this ship, at least it shouldn't. There is simply too much to be done, and we have seen the results when it does.

So I would not offer a grade for this Congress. Others have already done that. But I will say that at the beginning of this session, I staked my party to a pledge: When faced with an urgent issue, we would act. When faced with a problem, we would seek solutions, not mere political advantage. That pledge still stands. We have seen what we can do. We have actually seen it tonight. And we have reason to hope we will see it still.

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

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

IRAQ

Mr. REID. Mr. President, last week the Iraqi people celebrated a very rare triumph, they won a soccer game. But their celebration had nothing to do with decreased violence, improved distribution of water, electricity or other basic necessities or, of course, political reconciliation. It was a soccer game. Iraqis were celebrating their victory in the Asian Cup soccer championship, as well they should. But even during this rare moment of joy, political realities could not be ignored. After his game-winning shot, team captain Younis Mahmoud told reporters he would not be returning to his home country, and he hoped that the American forces would leave Iraq quickly.

The setting, a great victory for the Iraqi soccer team. Their hero, their captain, says: I am not going home. I am not returning to Iraq, and I want the Americans out.

His words reflect the overwhelming sentiment of the Iraqi people whose hopes he carried on his shoulders. A recent poll showed that 70 percent of Iraqis think American forces make them less safe.

President Bush said 2 weeks ago, the war in Iraq has invited guests, and we would leave if asked. They are asking, we are not going.

Yesterday was a day without water in Baghdad. It was 115 degrees. There was no water because there was insufficient electric generation for water filtration and distribution of water. This was the sixth day in a row with virtually no water in the capital city, this huge metropolitan area, no water. People are drinking water when they can, but it is contaminated, and they are getting sick. Four dead American soldiers yesterday.

Meanwhile new evidence emerges by the day. Prime Minister al-Maliki is utterly failing to achieve the political reconciliation the country so desperately needs. Even worse, there is no evidence he is even trying.

Next month the administration will deliver a progress report on Iraq to us, the Congress of the United States. We, of course, will take that report seriously, but it has been clear for some time that this war and President Bush's troop escalation is a tragic failure. General Petraeus, whom we hear so much about, has said time and time again, the war cannot be won militarily. Many of our colleagues on the other side of the aisle have said for months that September would be the turning point, that in September, if meaningful progress has not been made, they will finally work with us to reach a responsible end to the war.

When we come back in September, the eyes of the world will be on those Republicans who made September their month to draw a line in the sand. I hope they would back their words up with action. Democrats have done everything we can do. All Democrats, we have done everything we can do. We need some help from the Republicans to change the course of that intractable civil war, costing the American people about $350 to $360 million every day. We need to finally take a stand together, Democrats and Republicans, to deliver a responsible end to the war that the American people demand and deserve and turn our military focus to the grave and growing threats we face throughout the world that have been ignored by this administration for far too long.

LEGISLATIVE ACCOMPLISHMENTS

Mr. REID. Mr. President, my friend, the distinguished Republican leader, came to the floor, talked about a number of things tonight. I wish to approach things in a little different direction. I wish to talk about what we have accomplished in these short 7 months. We have worked hard. We have worked long, hard hours, something that hasn't been done for a long time in this body. Let's talk about the bills we have sent to the President of the United States that we have passed.

Minimum wage. We hear a lot about minimum wage, but minimum wage is not for kids flipping hamburgers at McDonald's. Sixty percent of the people who draw the minimum wage are women. For over half those women, that is the only money they get for themselves and their families.

I am glad we passed the minimum wage. After 10 years, we have given this legislation the attention it deserves. It is an issue that deals with women. It does. But also it is an issue that deals with people of color. The majority of the people who draw the minimum wage are people of color. We did the right thing. It is important legislation, and it is now the law.

A short time ago, we finished a vote on terrorism. On 9/11, it was an act of terror that killed over 3,000 Americans. President Bush went to Ground Zero on a number of occasions, but it was thought we should take a look at what really happened on 9/11. What could we do to better prepare for similar attacks? What went wrong? Why weren't we prepared?

So we asked—we Democrats asked—for months and months—that went well into more than 2 years—why don't we have an investigation to find out what went wrong? This was fought by the President. Finally, after an outcry from the survivors of the 9/11 victims and people all over this country, we were able to get a bipartisan commission to study 9/11. Even though the President opposed it, we finally were able to get this done.

They recommended we do certain things to make us safer. They made their recommendations, sent them to the White House, sent them to Congress, and we begged the President to implement these recommendations. They were not implemented. The 9/11 Commissioners came back and graded the President on how he had done—F's and Ds on everything.

This Congress, in these short 7 months, has passed legislation that implements the 9/11 Commission recommendations. There was a signing ceremony today at the White House. That is now the law. It is going to make our country much safer. The problem is, it is 3 years behind schedule.

We, as Democrats, recognize we had elections last November. There was tremendous turnover. People never believed Democrats would take control of the Senate. There was some talk they would take over the House. The Senate was never thought to be a body that we would take over. We did.

Why did we take over the Senate? We have nine new Democratic Senators, one of whom is presiding over the Senate tonight. Those nine Democratic Senators campaigned on a number of issues. But the one issue they campaigned on all over this country is to do something about the culture of corruption in Washington.

Why were the nine new Democrats concerned? For the first time in 131 years, someone working in the White House was indicted. Scooter Libby has

now been convicted and pardoned by the President. Mr. Safavian was appointed by the President to take care of Government contracts. He was a dishonest man. He had sweetheart deals with other people, including Jack Abramoff. He was led away from his office in handcuffs and is now in prison.

In the House of Representatives—controlled by the Republicans—the former majority leader of the House of Representatives was convicted three times of ethics violations. They changed the rules for him. He was indicted twice in Texas for crimes. Those are still going forward. A number of Members of the House of Representatives are now in jail; House staff in jail.

The K Street Project. What was the K Street Project? What it was: If you were a lobbyist downtown, you had to do what DeLay and the boys in the House wanted you to do or you could not get a job down there. They had to approve who was hired on K Street. That is what we call the ''lobbyist fiefdom.''

So there was a reason the nine new Democratic Senators wanted us to move forward quickly on ethics and lobbying reform. S. 1, the first bill we did—the most important bill is listed No. 1—was ethics and lobbying reform; and we passed it. It has been passed. It is the most sweeping ethics and lobbying reform in the history of our country.

I have said publicly, I say again in front of one of the nine new Democratic Senators, thank you for bringing to Washington a new culture. Yesterday, when that passed, we are in that new culture now.

We have sent to the President benchmarks to measure progress in Iraq. We sent to the President and funded mine-resistant combat vehicles. We sent to the President legislation giving the National Guard the equipment they need. The President went to the gulf—Katrina—and looked at it 22 times, I am told. But he would not give them any money. We forced the President to take what we wanted to give him in the supplemental appropriations bill—$7 billion. And we got that to the gulf victims.

We got disaster relief for small businesses and farms—3 years overdue. Wildfires are burning in the West as we speak. In Nevada, last week, we had 20 fires burning at the same time. We have one fire we share with the State of Idaho that is approaching a million acres burning. We got wildfire relief.

We were able to pass a law preserving the U.S. attorneys' independence. Why did we do it? Well, they were firing U.S. attorneys. The Presiding Officer was a U.S. attorney. There is an old saying in the law: What are you trying to do, make a Federal case out of it? Why did we say that? Because U.S. attorneys make cases you cannot beat most of the time.

But these U.S. attorneys, under this administration—under this corrupt administration—had to do what this administration wanted them to do or they had to go look for a new job. We do not know the full extent of what U.S. attorneys did because of political pressure from Karl Rove and others at the White House. I do not know if we will ever know. We know some of it.

What else have we passed? A pay raise for our troops, making college education more affordable. We passed in our reconciliation bill the most significant change in college education since the GI Bill of Rights. We passed CAFE standards, raising the fuel efficiency of vehicles for the first time in 25 years.

We passed, recently—first of all, in the supplemental appropriations bill, we funded SCHIP, the Children's Health Insurance Program, until the 1st of October. And here, yesterday, we passed health insurance for children. The Wounded Warriors legislation passed; a balanced budget with pay as you go. What does that mean? We passed a budget. The Republicans, for 3 years they had a majority of 55 to 45, and they could not pass a budget. We did it with a majority of 1—50 to 49. It is balanced, it is pay as you go. The Republicans, in the past, ran up these astronomical debts for our country, and did it with red ink.

We do not do that. We gave middle-class tax cuts, extended the child tax cut, gave tax relief for small businesses, funded women's health. We expanded eligibility for Head Start.

We had 94 hearings addressing the conduct of the war, and it is so important we have done that. As a result, we were able to take a look at the scandals that took place at Walter Reed, where our veterans were being neglected. We have things in progress we have passed and are waiting for conference reports to come back.

We are going to try—we tried to pass it tonight. There was an objection to reauthorizing the FDA, Food and Drug Administration, WRDA, Water Resources Development Act. We passed the competitive legislation that some say is some of the most important legislation passed in this body in decades, making this country more competitive educationally and in the business world.

The President has vetoed important legislation—stem cell research. Giving hope to millions of Americans has been vetoed by the President. The President vetoed timelines for bringing our troops home from Iraq.

And then, of course, we had a number of things blocked by obstructionism of the Republicans—lower priced prescription drugs. We were prevented from being able to vote because we could not get 60 votes, with the obstructionism of the Republicans on the ability of Medicare to negotiate for lower priced drugs. Insurance companies can do it, HMOs can do it but not Medicare. That is wrong, and we have been blocked from doing that.

We were even stopped from doing an Intelligence authorization bill. It is hard to comprehend, but that is true. This country is at war with the terrorists, but they have prevented us from doing an Intelligence authorization bill; there are a number of agencies in this country that handle our intelligence, our spying, and they stopped us from updating what they need to be able to do.

They twice filibustered antisurge legislation in Iraq, forced 45 cloture votes.

So, Mr. President, we have had a very productive 7 months. I hope we can come back and do more. I have been very happy with the last month or so. It appears bipartisanship is breaking out all over. I hope that can continue. As I said yesterday, when we do something good, there is a lot of credit to go around. When we do not do anything, there is a lot of blame to go around.

THANKING STAFF

Mr. REID. Mr. President, I extend my appreciation to our valiant staff. I wish them a very pleasant August. They worked so hard, along with us. We could not do our work without them. Everyone in this body here tonight—from our pages to our Parliamentarians to all the clerks, court reporters, police officers—I appreciate all the work they do.

FDA

Mr. REID. Mr. President, one thing I failed to mention with FDA, we got a letter from the administration saying: Go to conference on FDA. We tried. It was blocked by three Republicans. They should not have written the letter to me. They should have written it to them.

TRIBUTE TO HAZEL GETTY

Mr. REID. Mr. President, I rise today to join all our Senate colleagues and the Sergeant-at-Arms in honoring a valued, longtime Senate employee, Hazel Getty. Hazel will retire on August 3 from the Senate after 28 years of faithful and successful service.

For a staff member, Hazel has the unusual distinction of having served everyone in the Senate—Members, officers, staff, the Capitol Police and the Architect of the Capitol, and all their constituencies from her office in the Sergeant-at-Arms Printing, Graphics and Direct Mail, PG&DM, branch. In her role as manager of that department, Hazel has supported the people and processes which yield the many excellent printed products we rely on to inform, persuade and delight. Franked mail, floor charts, posters, the beautiful ''Welcome to Washington'' books we give to visitors, photocopying, and flag packaging are a few major services provided by Hazel's department, and there are many more. The extremely high quality of PG&DM products testifies to Hazel's devotion to excellence, to the Senate, and to the employees who work with her.

Communication with each other and with our constituents is elemental to Senate business and Hazel's group is an essential communication hub here. They are our partners in governance and under Hazel's leadership have performed admirably. We thank Hazel for her leadership and wish her a healthy and happy retirement.

Mr. MCCONNELL. Mr. President, I want to join the majority leader and associate myself with his remarks regarding the contributions of Hazel Getty to the operation of the U.S. Senate. Hazel has overseen a remarkable advance in the technological capabilities of the Sergeant at Arms' Printing, Graphics and Direct Mail branch. We will all miss Hazel's excellent leadership and gentle nature. We wish her all the best in this next chapter of her life.

APPLAUDING EDMONSON COUNTY, KENTUCKY

Mr. MCCONNELL. Mr. President, I rise today to applaud the patriotism and service of the residents of Edmonson County in my home State of Kentucky. Earlier this week, the local Bowling Green, KY, newspaper, the Daily News, published an article entitled ''Edmonson Leads U.S. in Army Recruitment.'' Edmonson County, located in the central part of the State, has the highest percentage of Army recruits in the country—quite an accomplishment, and a wonderful symbol of patriotism and sense of service that is evident not just in Edmonson County, but throughout the Commonwealth. According to the Army, Edmonson County ''produced the most enlistments for the Regular Army, Non-Prior Service'' as compared to the total national population of 15–24 year olds.

Kentucky has a proud military heritage. The Bluegrass State is home to widely recognized military installations such as Fort Knox and Fort Campbell. Our Guard and Reserve units continue to proudly serve on the front lines of the global war on terror. The people of Edmonson County are carrying on Kentucky's longstanding history of service and are proving their dedication and support as the United States continues to fight the terrorism. I am proud to represent such loyal and selfless citizens.

Mr. President, I ask that the entire Senate join me in expressing great admiration and gratitude to the people of Edmonson County, KY, for their patriotism and service. I ask unanimous consent that the full article from the Daily News be printed in the RECORD.

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

[From the Bowling Green Daily News, July 29, 2007]

EDMONSON LEADS U.S. IN ARMY RECRUITMENT

(By Ameerah Cetawayo)

Edmonson County, the home of nationally known Mammoth Cave National Park, made headlines recently for another reason—having the highest percentage of Army recruits in the country.

For every 1,000 young people in the county, about 11 of them decided to join the military in 2006.

For a county of about 12,000 people, the statistics magnify patriotic values, as well as the notion that more people from Edmonson County are leaving for Bowling Green and surrounding areas, according to leaders in the educational and business community.

According to military data analyzed by the National Priorities Project, a nonprofit research organization, Kentucky ranked 27th in the nation for the percentage of Army recruits.

The Army recruited 990 people from the commonwealth last year, about a 3 percent increase from 2005, according to NPP.

Earlier this month, the U.S. Department of Defense said the Army failed to meet its goal of 8,400 recruits for June by about 16 percent, with only 7,031 nationwide joining.

Brian Alexander, principal of Edmonson County High School, said having options for college is one explanation for why Edmonson County ranked high. Alexander said the latest graduating class of a little over 100 earned $250,000 in scholarships.

''Our kids are looking for opportunities. Right now, the military offers substantial financial opportunity to allow young men and women to pursue post-secondary careers,'' Alexander said, adding that joining the military also gives young people the opportunity to see different parts of the world.

Take a look at Edmonson County's courthouse in Brownsville and it's easy to see that military organizations are very active in the area, according to Edmonson County Schools Superintendent Patrick Waddell.

''One of the biggest reasons we probably have ranked high in that area is we're a very patriotic county,'' he said. ''The different services of the military are very active in the county. They do a lot of programs that are extracurricular activities in the middle school and high school.''

Waddell also said the percentage who go to college or a technical or trade school would be about the same as other districts.

''Being proud of your community and proud of your county and being proud of America, that's a very positive attribute of Edmonson County,'' Waddell said.

Sarah Childress, executive director of the Edmonson County Chamber of Commerce, said small-town values are alive and well in Edmonson County.

''I'm not saying things are different here, but it may have something to do with the way young people have been raised, to have that instilled in them at a young age, to want to serve their country,'' Childress said.

The appearance of a lesser amount of opportunities in Edmonson County may be a small factor also, she said.

''Anyone can go to Bowling Green, Louisville and Nashville and find a good job and commute. They can move if they want,'' Childress said. ''We don't have a lot of industry here.''

The biggest employer in Edmonson County is the board of education, followed by the county's highway department and local banks, Childress said.

''There is something out there for everybody, and Bowling Green is growing so much and moving even closer to southern Edmonson County,'' he said. ''There is so much industry going on in Bowling Green there is plenty out there for everybody.''

Other recruiting and retention statistics for the active and reserve components last month showed:

The Navy finished with 3,999 recruits. Its goal was 3,924. The Marine Corps exceeded its goal by recruiting 4,113 new Marines; its goal was 3,742. The Air Force met its goal of 2,233 recruits.

Army, Navy, Marine Corps, and Air Force met or exceeded overall active duty retention missions.

Five of the six reserve components met or exceeded their Reserve forces recruiting goals in June. The Air National Guard was the only reserve component to miss its goal, finishing at 75 percent with 779 of its goal of 1,036. The Army National Guard recruited 5,342 soldiers surpassing its goal of 5,338. The Army Reserve and Navy Reserve finished at 108 percent of their goals with 5,255 and 1,013 recruits, respectively.

The Marine Corps Reserve recruited 1,078 Marines, surpassing its goal of 986 at 109 percent. The Air Force Reserve met its goal of 597 recruits.

Reserve forces retention numbers show Army National Guard retention was 107 percent of the cumulative goal of 26,405, and Air National Guard retention was 98 percent of its cumulative goal of 8,430. Both the Army and Air Guard are currently at 101 percent and 99 percent of their end strength, respectively. Losses in all reserve components for May are well within acceptable limits, according to the DOD.—Source: U.S. Department of Defense

SMALL BUSINESS CHILDREN'S HEALTH EDUCATION ACT

Mr. REID. Mr. President, the 17th century English writer, Izaak Walton, said—

Look to your health; and if you have it, praise God, and value it next to a good conscience; for health is . . . a blessing that money can't buy.

Today in America, good health is not free. And for many working people, the cost and accessibility of quality health care has become prohibitive.

A decade ago, the Congress and President Clinton made a major downpayment on improving our health care delivery system.

Their new approach was aimed at a gap between children of very low-income families who were covered under Medicaid and children of middle- and upper-income families who could fortunately afford private insurance, usually through their employers.

But between the two, millions of children whose families neither qualify for Medicaid nor can afford private insurance are uninsured.

So in 1997, the Congress passed the Children's Health Insurance Program to fill that void.

When President Clinton signed that legislation into law, he said—

[The program] strengthens our families by extending health insurance coverage to up to 5 million children. By investing $24 billion, we will be able to provide quality medical care for these children—everything from regular check-ups to major surgery.

I want every child in America to grow up healthy and strong, and this investment takes a major step toward that goal.

Today, 10 years later, the Children's Health Insurance Program has been a smashing success by any measure.

With this innovative program, the number of uninsured children of working families has dropped by almost 35 percent.

Today, 6.6 million children have insurance thanks to this outstanding program.

Many of these kids are now getting regular checkups. They are benefiting from preventive medicine. And their primary care comes from a family doctor, not from an expensive and inefficient emergency room.

Examples of this program's success can be found in every State.

Since 1998, Terry Rasner of Reno, NV, has helped children in Nevada enroll in Nevada Check Up, which is the Nevada Children's Health Insurance Program.

In a 2001 profile, Terry told of a father trying to care for his daughters, ages 2 and 3, both in need of medical attention.

With Terry's help, the father's application for coverage of his daughters was approved within 2 weeks. At the girls' first doctor's appointment, one was diagnosed with a severe heart condition and was immediately scheduled for surgery.

Terry recalled the father telling her staff that this program—funded federally and put into action locally—had literally saved this little girl's life.

And Terry remembered the joy they all shared—the father, the girls and the program staff.

But Terry was quick to point out in a recent email that this story is just one example.

She went on to write:

There are many stories of children as old as 11 and 12 who were finally able to visit a dentist for the first time in their lives.

Stories of families who finally felt whole because they could access affordable medical and dental care for their children.

School nurses who were acutely involved in supporting and promoting this program from the outset because they were on the frontlines of failed programs—or no programs at all—to address the medical and dental needs of children of low-income working families.

One child in particular was so bad off, he was unable to eat and chew food due to the dramatic decay and gum morbidity in his mouth. Imagine, children for the first time in their lives actually getting to see a doctor or dentist that their parents were able to afford.

Stories like this—examples of the Children's Health Program saving lives—are being told across America, and the statistics bear that out.

Study after study shows that: kids enrolled in the Children's Health Insurance Program are much more likely to have regular doctor and dental care; they report lower rates of unmet need for care; the quality of care they receive is far better than it was before; school performance improves; the plan is helping to close the disparity in care for minority children; and it has become a major source of care for rural children.

So, Mr. President, there is no doubt—no question at all—that the Children's Health Insurance Program is good for kids, good for families and good for America.

Today before us is legislation to reauthorize and improve the Children's Health Insurance Program.

This bill maintains coverage for the 6.6 million children currently enrolled and adds an additional 3.3 million low-income, uninsured children.

It also improves the program by curbing coverage of adults in the program and targeting the lowest income-eligible families as new enrollees.

As good as this bill is, I would have preferred a more robust reauthorization.

I think we should provide coverage for even more low-income children, as we hoped to do in the Budget Resolution.

But we all know that legislating is the art of compromise.

I understand that some of my colleagues balked at a larger bill, and while I am disappointed, I am satisfied that this bipartisan compromise will be a positive step toward better health care for those who need it most.

There is a rival bill that is called the CHIP alternative bill. But this bill is no alternative.

It will leave many families without any options for coverage. It will turn back the clock on all the progress the program has made over the past 10 years. It is not worthy of our support.

Some of my colleagues share my feelings that we could have done more. Still others feel this bill is too generous in that it provides coverage for too many uninsured children.

But the bill before us now has broad support, and back in 2004, during his re-election campaign, President Bush shared the goals that this bill achieves.

He said during the campaign—

In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for government health insurance programs. We will not allow a lack of attention, or information, to stand between these children and the health care they need.

Now, just 3 years later, President Bush seems to be singing a different tune. He is now threatening to veto this legislation for what he calls ''philosophical reasons.''

What is the impact of this legislation?

A ''no'' vote denies the most vulnerable children in our society the chance to live healthy lives.

A ''yes'' vote gives 10 million children the protection of health care and all the opportunities of a healthy, well-cared-for life.

I can't imagine any of my colleagues—or the President—telling a child: You can't have health coverage. You have to stop seeing your doctor. If you get sick, your parents will have to take you to the emergency room.

If that were to happen—if the Congress were to reject the program or President Bush were to veto it for so-called philosophical reasons—they would be putting the health of millions of children at risk.

But I am hopeful that will not happen. This bill was forged through bipartisanship and a genuine pursuit of common ground.

I so appreciate the work of Chairman BAUCUS and Ranking Member GRASSLEY of the Finance Committee, along with Senators ROCKEFELLER and HATCH.

Their efforts were rewarded in the Finance Committee with an overwhelming 17–to–4 vote in favor of the bill, and I am hopeful that we will mirror that here on the Senate floor.

All too often, we hear about what Government can't do. The Children's Health Insurance Program is a stellar example of what it can.

This program is Government at its best: lending a helping hand, providing a safety net to children who need a boost to reach their full potential.

I couldn't be prouder to support this outstanding program, and I urge all of my colleagues to do the same.

• Mr. KERRY. Mr. President, last night, the Senate voted to reauthorize the vitally important State Children's Health Insurance Program, SCHIP. The legislation, approved by a vote of 68 to 31, demonstrates the Democratic majority's commitment to expanding this successful health insurance program and made a loud and clear statement regarding the importance of children's health as a national priority. During debate on this bill, I offered an amendment to add $15 billion in additional funding to cover over a million additional low-income children. Unfortunately this amendment was not adopted, however I am grateful to my colleagues for voting to include as part of H.R 976 the Small Business Children's Health Education Act, which I introduced in June with Senators SNOWE and LEVIN. This amendment directs the Federal Government to make a concerted effort to reach out to small business owners and employees to enroll eligible children in SCHIP.

In February of 2007, the Urban Institute reported that among those eligible for the State Children's Health Insurance Program, children whose families are self-employed or who work for small business concerns are far less likely to be enrolled. Specifically, one out of every four eligible children with parents who work for a small business or who are self employed are not enrolled. This statistic compares with just one out of every 10 eligible children whose parents work for a large firm.

We need to do a better job of informing and educating America's small business owners and employees of the options that may be available for covering uninsured children. To that effect, the Small Business Children's Health Education Act creates an intergovernmental task force, consisting of the Administrator of the Small Business Administration, the Secretary of Health and Human Services, the Secretary of Labor and the Secretary of Treasury, to conduct a campaign to enroll kids of small business employees who are eligible for SCHIP and Medicaid but are not currently enrolled. To educate America's small businesses on the availability of SCHIP and Medicaid, the task force is authorized to

make use of the Small Business Administration's business partners, including the Service Corps of Retired Executives, the Small Business Development Centers, Certified Development Companies, and Women's Business Centers, and is authorized to enter into memoranda of understanding with chambers of commerce across the country.

Additionally, the Small Business Administration is directed to post SCHIP and Medicaid eligibility criteria and enrollment information on its website, and to report back to the Senate and House Committees on Small Business regarding the status and successes of the task force's efforts to enroll eligible kids.

I would like to thank Finance Committee Chairman BAUCUS and Ranking Member GRASSLEY for their work to include this amendment in the SCHIP Reauthorization Act. I look forward to working with our colleagues in the House of Representatives to send the President a bill that goes a long way toward what should be our unified goal: to cover every child in America.

(At the request of Mr. REID, the folowing statement was ordered to be printed in the RECORD.)

FISA

• Mr. KERRY. Mr. President, I was necessarily absent from the votes related to the reauthorization of FISA. I strongly support the critical efforts to protect our national security and, as I have repeatedly stated in the past, I want the Federal Government to do all that it can to aggressively pursue al-Qaida and other terrorist organizations. I believe the legislation developed by Senators ROCKEFELLER and LEVIN achieves these goals without targeting American citizens without court authorization. I believe the approach by Senators ROCKEFELLER and LEVIN will give the intelligence community all the tools it needs to protect our national security while maintaining the independence of the FISA Court. This legislation will give the intelligence community the tools they need to collect foreign-to-foreign intelligence communications. It will compel compliance from communications providers. It will allow the intelligence community to collect all foreign intelligence information. I hope my colleagues support this important legislation.•

Mr. FEINGOLD. Mr. President, last night, the Senate was able to successfully pass the reauthorization of a popular program that has reduced the number of uninsured children in our country by over 6 million. The Children's Health Insurance Program has helped lower the rate of uninsured low-income children by one-third since its enactment in 1997. That is a huge accomplishment, and has helped address a problem in our country that is unacceptable—the millions of families lacking insurance. Moreover, while the bill has a pricetag of roughly $40 billion over 10 years, it is fully offset and would cover over 3 million more children. This program, according to CBO and numerous economists, is the most efficient method of getting health care insurance to low-income kids and parents, and that means CHIP provides the best coverage available for low-income families.

In my home state of Wisconsin, CHIP is known as BadgerCare and it provides health insurance for over 67,000 families. My State has done an incredible job of covering uninsured families, and the positive effects of this program are felt at schools, in the workforce, and at home. This bill helps support Wisconsin's efforts and provides low-income children in my State with better access to preventive care, primary care, and affordable care. The end result is healthier families. BadgerCare is vital to the well-being of many families in Wisconsin and I am very pleased that this bill supports the program in my State, including Wisconsin's choice to cover parents of CHIP and Medicaid children.

The ability to cover adults in CHIP continues to be a priority for States like Wisconsin. Many States extend coverage to low-income adults and parents of children enrolled in SCHIP. This coverage has been given prior Federal approval—including in the Bush administration—and has significantly lowered the rate of uninsurance in our states. Wisconsin provides family-based coverage, which is an important determinant in children's coverage and use of services.

We know from numerous reports that when we cover parents, we bring more uninsured children into the program as well. States like Wisconsin have proven this time and again. No child is left off the rolls because a parent is covered. Covering parents means covering more kids—bottom line. Wisconsin chose to cover parents because research shows that it is the best way to bring low-income children into BadgerCare. This choice was wisely supported by this administration this May as CMS approved parent coverage in BadgerCare for another 3 years. Despite all the evidence and the widespread support for this policy, a number of Senators wanted to remove all adults from the CHIP program.

I worked with the Senate Finance Committee and a number of other Senators who represent States like Wisconsin on an agreement that will allow our States to keep families in the CHIP program. I am grateful to my colleagues Senator BAUCUS and Senator ROCKEFELLER for working with me to help Wisconsin keep parents on the rolls while also bringing additional tens of millions of dollars to the State. The agreement reflected in this bill ensures that Wisconsin will not have to drop a single person from the insurance rolls, and will even be able to expand coverage to more people in the State. I am happy to support this agreement regarding parents today.

We also have a moral obligation to provide assistance to the very poor, even if they do not have children. When we talk about childless adults in CHIP, we are talking about the very poorest of the poor. Most of the childless adults in the program live well below 100 percent of Federal poverty. An adult at 50 percent of the Federal poverty level must attempt to survive on less than $500 per month. This is not enough to afford adequate food and shelter, let alone health insurance, in any State. We all know a single visit to the emergency room can cost more than someone in this situation makes in a year. Providing coverage to childless adults increases their ability to see a doctor when a problem is small, at a significantly lower cost than if care is delayed, the problem is exacerbated, and the result is an emergency room visit. Covering poor individuals helps to curb the cost of health care and health insurance for all of us, because we all bear emergency room costs through higher hospital and physician charges and then through increased health insurance premiums.

I strongly believe we should continue to cover current populations. CHIP has allowed states to mold the program to meet their specific needs, and while we may not all agree with what each State chooses to do, we should respect that decision. Additionally, we should never impose policies on States that would result in a higher number of uninsured for the State. It is bad policy, and it's the wrong thing to do.

Another issue critical to children's health is to ensure that unnecessary or burdensome barriers to enrollment are removed. The onerous citizenship documentation requirements established in the 2005 Deficit Reduction Act, DRA, are keeping hundreds of thousands of eligible beneficiaries from the health care they need. This provision has created a serious new roadblock to coverage. As a result of the provision, which requires U.S. citizens to document their citizenship and identity when they apply for Medicaid or renew their coverage, a growing number of States are reporting a drop in Medicaid enrollment, particularly among children, but also among pregnant women and low-income parents. Health care coverage is being delayed or denied for tens of thousands of children who are clearly citizens and eligible for Medicaid but who cannot produce the limited forms of documentation prescribed by the regulations. These children are having to go without necessary medical care, essential medicines and therapies. In addition, community health centers are reporting a decline in the number of Medicaid patients due to the documentation requirements and are faced with treating more uninsured patients as a result.

In Wisconsin, more than 26,000 individuals—half of whom were children under age 16—lost Medicaid or were denied coverage solely because they could not satisfy the federal documentation requirements. About two-

thirds of these people are known by the state to be U.S. citizens; most of the remainder are likely to be citizens as well, but have yet to prove it.

A study of 300 community health centers, conducted by George Washington University, found that the citizenship documentation requirements have caused a nationwide disruption in Medicaid coverage. Researchers estimate a loss of coverage for as many as 319,500 health center patients, which will result in an immediate financial loss of up to $85 million in Medicaid revenues. The loss of revenue hampers the ability of safety net providers to adequately respond to the medical needs of the communities they serve.

In addition to consequences suffered by eligible U.S. citizens, states have reported incurring substantial new administrative costs associated with implementing the requirement. They have had to hire additional staff, retool computer systems, and pay to obtain birth records. States are also reporting that the extra workload imposed by the new requirement is diverting time and attention that could be devoted to helping more eligible children secure and retain health coverage.

States are in the best position to decide if a documentation requirement is needed and, if so, to determine the most effective and reasonable ways to implement it. States that do not find it necessary to require such documentation could return to the procedures they used prior to the DRA and avoid the considerable administrative and financial burdens associated with implementing the DRA requirement. Most importantly, these states could avoid creating obstacles to Medicaid coverage for eligible U.S. citizens.

Despite significant support for allowing states to determine the best way to document citizenship, that complete fix is not included in the underlying bill. The restrictions are eased, and this is an important first step, but I hope we can continue to move forward on this issue and return this requirement to a State option. I am pleased that this is done in the CHIP reauthorization in the House version of this legislation, and I hope that as we continue to work to support children's health care, we will also work to remove barriers to enrollment that are preventing our children from receiving the care they need.

In addition to these issues that we considered in the Children's Health Insurance Program Reauthorization, I would like to talk about the bigger picture of health care reform. There is a crisis facing our country, a crisis that directly affects the lives of over 45 million people in the United States, and that indirectly affects many more. The crisis is the lack of universal health insurance in America. It is consistently the number one issue that I hear about in Wisconsin, and it is the No. 1 issue for many Americans. Nevertheless, the issue has been largely ignored in the Halls of Congress. We sit idle, locked in a stalemate, refusing to give this life-threatening problem its due attention. We need a way to break that deadlock, and that is why last April, I introduced a bill with the Senator from South Carolina, LINDSEY GRAHAM, that will do just that the State-Based Health Care Reform Act.

Senator GRAHAM and I are from opposite ends of the political spectrum, we are from different areas of the country, and we have different views on health care. But we agree that something needs to be done about health care in our country. In short, our bill establishes a pilot project to provide States with the resources needed to implement universal health care reform. The bill does not dictate what kind of reform the States should implement, it just provides an incentive for action, provided the States meet certain minimum coverage and low-income requirements.

Even though Senator GRAHAM and I support different methods of health care reform, we both agree that this legislation presents a viable solution to the logjam preventing reform.

This bipartisan legislation harnesses the talent and ingenuity of Americans to come up with new solutions. This approach takes advantage of America's greatest resources—the mind power and creativity of the American people—to move our country toward the goal of a working health care system with universal coverage. With help from the Federal Government, States will be able to try new ways of covering all their residents, and our political logjam around health care will begin to loosen.

We are fortunate to live in a country that has been abundantly blessed with democracy and wealth, and yet there are those in our society whose daily health struggles overshadow these blessings. Over the past few days, my colleagues have shared tragic stories of children who have suffered as a result of being uninsured, and we have listened to the heartwarming stories of families who have—quite literally—been saved by the Children's Health Insurance Program. The Children's Health Insurance Program reauthorization marks an important leap forward in getting coverage to those who need it. I was pleased to support this bill's final passage, and I look forward to the day that everyone in our country has access to the basic right of health care.

Mr. DODD. Mr. President, I am in strong support of H.R. 976, the Small Business Tax Relief Act. There are few more important issues facing the Senate than the health and well-being of our nation's children. The vote to pass this legislation is a vote for children. It is a vote to do what's right for our nation's youth.

As the father of two young daughters, I know the importance of having the peace of mind to know that if one of them gets sick they have the health insurance coverage that will provide for them if they break a bone or get a cold. For millions of parents, every slight sniffle or aching tooth could mean the difference between paying the rent or paying for medical care.

It is our national shame that nine million children wake up every day lacking any form of health insurance. For their parents, the lack of access to health insurance means a regular check up is sidelined, a dental exam goes unscheduled, or an early diagnosis of a chronic condition such as asthma or diabetes is postponed. For families, such delays in access to proper health care set the stage for children to grow up underperforming in school, developing preventable or treatable conditions, or worse, permanent disability or even premature death.

The lack of health insurance goes beyond poor health outcomes. Health insurance is inextricably linked with alleviating child poverty. Low-income families without insurance often get stuck in an endless cycle of medical debt. Personal debt due to medical expenses is a primary cause of bankruptcy filings in this country. Parents already struggling to make ends meet should not have to choose between buying medication for their children and putting food on the table.

I commend the chairman and ranking member of the Finance Committee for working so hard to put together a bill that will benefit the lives of millions of children and their families. Through their leadership and that of Senators HATCH, ROCKEFELLER, KENNEDY and many others, since the Children's Health Insurance Program was first enacted, the number of uninsured children has decreased by one-third. The bill passed by the Senate is an important vote for children. Although I supported efforts to broaden the bill to cover an additional one million uninsured children, the bill passed by the Senate is a tremendous investment in the health and future of our children.

Specifically, this bill continues providing coverage for 6.6 million children currently enrolled in CHIP and provides coverage for 3.2 million children who are currently uninsured today. It will reduce the number of uninsured children by one third over the next 5 years.

In my own State of Connecticut, our CHIP program, commonly known as HUSKY B, has brought affordable health insurance to more than 130,000 children in working families since its inception in 1998. H.R. 976 is essential to states like Connecticut so that they may continue to operate programs like HUSKY B and build on their proven success to insure even more children.

I am additionally very pleased that my Support for Injured Servicemembers Act amendment was included in the final SCHIP bill. This amendment provides up to 6 months of Family and Medical Leave Act, FMLA, leave for family members of military personnel who suffer from a combat-related injury or illness. FMLA currently allows three months of unpaid leave. Fourteen

years ago, FMLA declared the principle that workers should never be forced to choose between the jobs they need and the families they love. In the years since its passage, more than 50 million Americans have taken advantage of its provisions to care for a sick love one, or recover from illness themselves, or welcome a new baby into the family.

Mr. President, if ordinary Americans deserve those rights, how much more do they apply to those who risk their lives in the service of our country? Soldiers who have been wounded in our service deserve everything America can give to speed their recoveries—but most of all, they deserve the care of their closest loved ones. Given the severity of their injuries, and our debt of gratitude, our servicemembers need more. That is exactly what is offered in the Support for Injured Servicemembers Act.

Senator Bob Dole and former Secretary of Health and Human Services Donna Shalala have been instrumental in this effort as well, through their thoughtfulness and work on the President's Commission on Care for America's Returning Wounded Warriors. It's not surprising that the Commission found that family members play a critical role in the recovery of our wounded servicemembers. The commitment shown by the families and friends of our troops is truly inspiring. According to the Commission's report, 33 percent of active duty servicemembers report that a family member or close friend relocated for extended periods of time to help their recoveries. It also points out that 21 percent of active duty servicemembers say that their friends or family members gave up jobs to find the time.

I am pleased that Senator CLINTON is the lead co-sponsor of my amendment. FMLA was the very first bill that President Clinton signed into law, and I am grateful that his wife, Senator CLINTON, continues to support the principles that I have been fighting for over 20 years. I am pleased that Senators DOLE, GRAHAM, KENNEDY, CHAMBLISS, REED, MIKULSKI, MURRAY, SALAZAR, LIEBERMAN, MENENDEZ, BROWN, NELSON of Nebraska, and CARDIN are co-sponsoring this amendment. I thank Senator BAUCUS and Senator GRASSLEY for accepting this important amendment and appreciate the support of all of my colleagues in this effort.

Mr. President, I am troubled by the comments from the Bush administration about this bill. It is a bill to help children and an overwhelming majority of members on both sides of the aisle have voted to support that goal. The CHIP Program is a model of success and this bill provides sustainable and predictable health care coverage for low income children regardless of their health status. One day soon, the President will make a decision on whether to sign CHIP reauthorization into law. At that moment, all Americans will know whether the President stands for children or would rather stand in the way of children's access to critically needed health care.

BRITISH PETROLEUM REFINERY

Mr. DURBIN. Mr. President, today I rise to speak about the proposed expansion of a British Petroleum refinery in Whiting, IN. BP Amoco has requested, and received, a permit to increase the pollution it dumps into Lake Michigan.

Under this new permit, BP's expanded facility will release 54 percent more ammonia and 35 percent more suspended solids which contain heavy metals, including mercury, into Lake Michigan. Expanding refinery capacity is an important goal and a project with many benefits, but we shouldn't do this at the expense of one of our most precious natural resources.

Congress passed the Clean Water Act to restore and maintain the integrity of our Nation's waters. The express goal of the law is to reduce the amount of pollutants entering the Nation's waterways. The Clean Water Act went so far as to set a very specific target of reaching zero pollutants going into the waters by 1985. Zero discharges. We certainly have not met that target.

But we have been trying to move toward it. Now, BP wants to increase its pollution into Lake Michigan. BP has spent millions and millions of dollars to ''green'' its image. This company has effectively changed its name from ''British Petroleum'' to ''Beyond Petroleum.''

Yet with this ''green'' image, BP turns around and asks for a permit to dramatically increase the amount of pollutants it dumps into Lake Michigan. BP has worked very hard to make the American public think that the company is an environmental steward, that it is a responsible and sustainable company. And it does have some very good initiatives, but BP stands to lose this image by insisting on dumping more pollution into Lake Michigan.

A Chicago Sun Times article this week referred to BP as ''Big Polluters.'' I don't think that is what the company wants.

The CEO of BP met with me last week. I asked him to take another look at the technology that is currently available to decrease the amount of ammonia and total suspended solids that will be introduced into Lake Michigan. I encouraged BP to find a better solution.

I am calling on BP to live up the standard it has set for itself as a corporate steward of the environment and to stop any additional pollution from being discharged into Lake Michigan.

The Great Lakes are a tremendous and valuable resource. The lakes are a largely closed ecosystem that has a very long water retention time. It takes 106 years for water to be completely flushed through Lake Michigan. Pollutants that are introduced into the lake are likely to stay there for a long time.

The Great Lakes contain more than 20 percent of the Earth's surface fresh water and are a necessary drinking water source for nearly 40 million Americans. Increasing pollution going into the Lakes should worry us all. Twenty-five percent of the U.S. and Canadian populations are within the watershed of the Great Lakes.

Congress appreciates the value of this resource. More than 30 Federal laws have been enacted that specifically focused on restoring the Great Lakes basin.

Government at all levels is working to prevent industrial pollution, sewage discharges, invasive species and water diversion. These efforts are to ensure that future generations will enjoy the beauty of our magnificent Great Lakes.

Dumping more pollution into one of our most important sources of fresh water is a bad idea. The people in my State recognize that. They are willing to forgo the modest increase in refinery expansion to protect Lake Michigan.

At a time when fresh water sources are threatened here and around the globe, we should demand more especially from corporate leaders who flash public relations campaigns about moving ''beyond petroleum.'' BP is not a struggling small business. In the past three years, BP Corporation has earned net profits of over $60 billion. If anyone has the resources to find alternatives, it is BP Amoco.

We respectfully ask BP to live up to the image it has worked so hard to create and use some of the resources they have to prevent additional pollution from entering our drinking water. Please protect our natural resource, don't degrade it.

MENTAL HEALTH PARITY ACT

Mr. CASEY. Mr. President, I rise today to clarify my support for S. 558, the Mental Health Parity Act of 2007. This bipartisan legislation introduced by Senators DOMENICI and KENNEDY, seeks to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services. I join my colleague, the senior Senator from Pennsylvania, Mr. SPECTER, in establishing for the record today the reasons for our joint support for this bill. I also thank Chairman KENNEDY and Senator DOMENICI for joining us in this discussion.

Mr. SPECTER. I thank my colleague Senator CASEY. Mr. President, as a cosponsor of S. 558, I am pleased that the Senate is taking up this important legislation. I thank Health, Education, Labor, and Pensions, HELP, Committee Chairman KENNEDY, Senator DOMENICI, who along with HELP Committee Ranking Member ENZI and others, have worked to establish mental health parity for millions of American citizens.

Mr. KENNEDY. I thank my colleagues from Pennsylvania and appreciate their dedication to and support for the cause of mental health parity. I

welcome this opportunity to discuss this critical legislation.

Mr. DOMENICI. I concur with Senator KENNEDY and look forward to Senate action on S. 558.

Mr. CASEY. Mr. President, the Mental Health Parity Act of 2007 amends the Employee Retirement Income Security Act, ERISA, and the Public Health Service Act to require a group health plan that provides both medical and surgical benefits and mental health benefits to ensure that: (1) the financial requirements applicable to such mental health benefits are no more restrictive than those of substantially all medical and surgical benefits covered by the plan, including deductibles and copayments; and (2) the treatment limitations applicable to such mental health benefits are no more restrictive than those applied to substantially all medical and surgical benefits covered by the plan, including limits on the frequency of treatments or similar limits on the scope or duration of treatment.

Mr. SPECTER. In 1989, in the Commonwealth of Pennsylvania, the State legislature passed a bill, Pennsylvania Act 106, which requires all commercial group health insurance plans and health maintenance organization's to provide a full continuum of addiction treatment including detoxification, residential rehabilitation, and outpatient/partial hospitalization. The only lawful prerequisite to this treatment and to coverage is certification to need and referral from a licensed physician or psychologist. Such certifications and referrals in all instances control the nature and duration of treatment. I support existing Pennsylvania law and, before agreeing to support S. 558, assured myself that S. 558 will not serve to supplant greater Pennsylvania protections for those seeking treatment for substance abuse.

Mr. CASEY. I join my esteemed colleague in having assured myself that S. 558 will not serve to preempt in any way the services and benefits provided to the citizens of Pennsylvania by Pennsylvania Act 106. I know that our offices have collaborated extensively in this analysis and have consulted with HELP Committee staff and Senator DOMENICI's staff, and that our views are borne out by extensive legal and scholarly analysis of the preemptive provisions of S. 558.

Mr. KENNEDY. I can assure the Senators from Pennsylvania that we have labored to ensure that S. 558 will serve only to benefit States and the coverage that citizens receive.

Mr. CASEY. I thank Chairman KENNEDY and Senator DOMENICI, and I note in particular that Professor Mila Kofman, Associate Research Professor, Health Policy Institute, Georgetown University, wrote to Senator SPECTER and myself on August 2, 2007, extolling the benefits of S. 558. I ask unanimous consent to print in the RECORD Professor Kofman's letter.

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

GEORGETOWN UNIVERSITY
HEALTH POLICY INSTITUTE,
August 3, 2007.

Hon. ROBERT P. CASEY, Jr.,
U.S. Senate, Russell Senate Office Building, Washington DC.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CASEY AND SENATOR SPECTER: This is a response to a request for an analysis of the preemption provisions in the Mental Health Parity Act of 2007 (S. 558 as amended 8/3/07 Managers' Amendment).

The changes made to the preemption section in S. 558 mean that the current HIPAA federal floor standard would apply to the new Mental Health Parity law (just like it applies to the current law passed in 1996).

This would mean that more protective (of consumers) state insurance laws would apply to insurers that sell coverage to employers. This bill would also mean new federal protections for people in self-insured ERISA plans.

This would be a tremendous victory for patients who need coverage for mental health services. This approach continues the public policy established in 1996 in HIPAA—an approach that allows states to be more protective of consumers while setting a federal minimum set of protections for workers and their families.

While not every word or phrase is perfect (meaning not 100% litigation proof), using the current HIPAA preemption standard would certainly make it difficult to win a case that seeks to challenge more protective state insurance law.

If enacted, this bill would provide much needed minimum protections for people in self-insured ERISA plans who currently are not protected by states because of ERISA preemption. It also raises the bar for insured products.

If you have additional questions, please contact me at 202–784–4580.

Very truly yours,

MILA KOFMAN, J.D.,
Associate Research Professor.

Mr. CASEY. In the letter, Professor Kofman writes:

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If enacted, this bill would provide much needed minimum protections for people in self-insured ERISA plans who currently are not protected by states because of ERISA preemption. It also raises the bar for insured products.

Mr. SPECTER For the purpose of further clarifying congressional intent of S. 558 and its application to state law and specifically Pennsylvania Act 106, will the senior Senator from Massachusetts and the senior Senator from New Mexico yield for questions from Senator CASEY and myself?

Mr. KENNEDY I will be happy to do so.

Mr. DOMENICI As will I.

Mr. SPECTER I thank Chairman KENNEDY and Senator DOMENICI. Why doesn't the Mental Health Parity Act have its own preemption provision?

Mr. KENNEDY It is our intention to establish a Federal floor and not a Federal standard or Federal caps. Thus, we decided to use the already-existing language and standard found within part 7 of ERISA, which is where the current mental health parity law already resides, and where S. 558 will be codified. This law contains the narrowest possible preemption language, and is meant to preempt only those state laws that are less beneficial to consumers and insured, from the standpoint of the consumer and insured, than this new Federal law.

Mr. CASEY The Health Insurance and Portability Accountability Act, HIPAA, preemption standard that will apply prevents State laws that ''prevent the application of requirements of this part,'' which refers to part 7 of ERISA. Do the medical management provisions of section 712A(b) constitute ''requirements of this part'' that might preempt State laws under this standard?

Mr. DOMENICI No. Section 712A(b) says that managed care plans ''shall not be prohibited from'' carrying out certain activities. It does not require them to do so, and this is not a ''requirement of this part.'' This section recognizes that plans have flexibility. It is not our intention to preempt any State laws that regulate, limit, or even prohibit entirely the medical management of benefits. That is one of the reasons we are using a preemption standard—the existing HIPAA standard that so clearly does not preempt such a law.

Mr. SPECTER Would a State law that establishes a physician or psychologist's certification, as the only lawful prerequisite to managed care coverage of a particular treatment, be preempted?

Mr. KENNEDY Such a law is not preempted, and it is not our intention to preempt any such law.

Mr. CASEY What about a State law requiring insurers or managed care companies to cover an entire continuum of care?

Mr. DOMENICI Mr. President, it is my understanding that such a law would not be preempted. S. 558 is a Federal floor, and nothing in such a State law Senator CASEY describes would prevent the application of any requirements of part 7 of ERISA.

Mr. SPECTER Would State laws that place coverage decisions squarely in the hands of treating clinicians be preempted?

Mr. KENNEDY Absolutely not.

Mr. CASEY Focusing specifically on Pennsylvania, as you may be aware, the citizens of Pennsylvania just received a significant court victory from the Commonwealth Court, upholding a Pennsylvania law that was previously mentioned here, Pennsylvania Act 106.

That State law and the recent decision in The Insurance Federation of Pennsylvania, Inc. v. Commonwealth of Pennsylvania Insurance Department, removes managed care barriers to addiction treatment. What effect will S. 558 have on that State law, or on State efforts to enforce that law or to find remedies for violations of that law?

Mr. KENNEDY This bill would have no effect upon that law.

Mr. CASEY Would any State laws be preempted?

Mr. DOMENICI Yes, State law requirements that would prevent the application of a requirement of S. 558 by, for example, endorsing a less consumer-friendly level of coverage or benefits. For example, a State law that prohibited an insurance company from selling policies providing for full parity in coverage for mental health services and medical/surgical services would be preempted.

Mr. CASEY Would the current legislation, S. 558, have any effect on any provisions of Pennsylvania Act 106, or on any State efforts to enforce provisions of that law or to find remedies for violations of any provisions of that law?

Mr. KENNEDY It would have no effect. Pennsylvania's Act 106 is an example of the kind of consumer protection law that is not preempted by the federal floor created in S. 558.

Mr. SPECTER I appreciate this discussion with my colleague from Pennsylvania, Chairman KENNEDY and Senator DOMENICI. I thank Chairman KENNEDY, Ranking Member ENZI, Senator DOMENICI and others on the HELP Committee who have worked so hard to establish these critical benefits for citizens across our great country. And I thank them for this discussion to clarify our support for S. 558.

Mr. CASEY I also want to express my deepest thanks to HELP Committee Chairman KENNEDY, Senator DOMENICI, HELP Committee Ranking Member Enzi, and all members and staff who have worked so hard to make this long time dream a reality. I greatly appreciate this discussion and our establishment of intent regarding S. 558.

AMERICA COMPETES ACT

Mr. INOUYE. Mr. President, America's strength has always been in the innovation, technical skill, and education of its workforce. The economic growth and well-being of the nation relies on the technical innovations achieved by our workforce. To realize growth and success, the United States must continue to support the two critical components vital to the innovation process: education and basic research. Today, Congress takes a significant step toward this commitment.

The National Academy of Sciences and the Council on Competitiveness have identified science and innovation as key drivers of economic growth. The United States has seen a sharp palpable decline in its scientific prowess. The United States is losing the educational battle with Germany, China, and Japan. In the United States, only 32 percent of graduates hold a degree in science and engineering, while Germany boasts 36 percent of graduates with degrees in science and engineering. Outpacing both the United States and Germany is China, with 59 percent of graduates with degrees in math and science, and Japan with 66 percent.

The America COMPETES Act embodies bipartisan, bicameral multicommittee efforts in responding to the Nation's defining economic challenge of how to remain strong and competitive in the face of emerging challenges from India, China, and the rest of the world.

The America COMPETES Act addresses programs within several scientific agencies of which the Senate Committee on Commerce, Science, and Transportation has jurisdiction. Within the Department of Commerce, the National Institutes of Standards and Technology, NIST, promotes U.S. innovation and industrial competitiveness by advancing measurement science, standards, and technology. The legislation before us would double the agency's funding over the next 10 years. We also create a new program, the Technology Innovation Program, which will support high-risk, high-reward research. This was one of the major recommendations of the National Academies report, ''Rising Above the Gathering Storm.''

Also within the Department of Commerce, the National Oceanic and Atmospheric Administration, NOAA, conducts significant basic atmospheric and oceanographic research, including climate change research. Some have argued that the ocean truly is the last frontier on Earth, and ocean research and technology may have broad impacts on improving health and understanding our environment. Toward this end, Congress included provisions on NOAA research and education, as well as, NOAA's continued participation in interagency innovation and competitiveness efforts.

The bill also includes the National Aeronautics and Space Administration, NASA, in the competitiveness agenda. Like the oceans, space serves to inspire young students and attract them to studies in science, technology, engineering, and mathematics.

The need for additional research through the National Science Foundation, NSF, also is addressed in this bill with authorization for appropriations through fiscal year 2010. This bill places NSF on track to double in 7 years. While this is not as aggressive an approach as the Senate sought, it is clear that Congress is united in our belief that the NSF is indeed the Nation's premier scientific research enterprise. We need to support this enterprise to the best of our abilities, so that it can enable our scientists to continue their discovery. Within the NSF, I am proud that the conferees supported the creation of a mentoring program designed to recruit and train science, technology, and engineering professionals to mentor women, and other underrepresented minorities, in these fields. We need to ensure that we do not neglect a segment of the U.S. population, but rather maximize all of this country's great human resources.

A strong national investment in science, education, and technology provides opportunities for Americans to succeed in a whole array of disciplines and professions. Technology and innovation influence many policy problems such as a changing telecommunications landscape, potential improvements to our transportation infrastructure, and the need for advanced technologies to increase our energy independence. The America COMPETES Act directs the Nation on the path to preserve and improve its workforce. This bill demonstrates that Americans are not taking their traditional technological and economic dominance for granted but are continually working to improve and lead

Mr. CARDIN. Mr. President, I am pleased that last night the Senate passed the conference report that accompanies H.R. 2272, the America COMPETES Act of 2007. Innovation resulting from Americans' genius and gift for innovation has revolutionized the global economy and workplace as well as all our everyday lives.

Unfortunately, our education system has failed to keep pace; now, many of our Nation's schools are unable to provide their students with the scientific, technological, engineering, and mathematical knowledge and skills the 21st century economy demands. Without well-trained people and the scientific and technical innovations they produce, this Nation risks losing its place as the epicenter for innovative enterprise that has been one of our proudest traditions.

I applaud Senators BINGAMAN and ALEXANDER and the other leading sponsors of the bill for their action to ensure that this Nation remains a technological leader. I was proud to join them as a cosponsor of the bill and was proud to join them to vote for its final passage.

I am grateful to the academic and business leaders, including Nancy Grasmick, the Maryland State superintendent of schools, and Dr. C.D. Mote, Jr., president of the University of Maryland, who produced both the National Academies' ''Rising Above the Gathering Storm'' and the Council on Competitiveness's ''Innovative America'' reports and recommendations that serve as the foundation for this critical legislation.

This legislation is critical for it addresses the growing gap in this country between what is taught in elementary and secondary schools and the skills necessary to succeed in college, graduate school, and today's workforce. This gap threatens the implicit promise we have each made to our own children and those whom we represent: get

good grades in school and you will succeed in life.

H.R. 2272 contains provisions that will encourage better alignment of elementary and secondary curricula with the knowledge and skills required by colleges and universities, 21st century employers, and the Armed Forces. There are critical measures that will improve teacher recruitment and training, develop partnerships between schools and laboratories, and encourage internship programs. These provisions will increase students' exposure to inspirational teaching, talented scientists, and real-world experience so that high school graduates students are better prepared to succeed in today's global economy.

But it is not enough to improve science and math education. Those students who choose to pursue high-tech careers require federal funding to conduct research. H.R. 2272 will significantly increase America's investment in research, doubling funding for the National Science Foundation and the Department of Energy's Office of Science over the next 4 years and authorizing a significant increase in funding for the National Institute of Standards and Technology. The legislation goes further toward encouraging scientific and technological discovery by targeting more funds to young researchers and high-risk frontier research.

Today, we face enormous challenges from halting global climate change to curing devastating diseases. This legislation takes critical steps to ensure we arm ourselves with the skills and resources to tackle these problems so that our children and grandchildren may inherit a better world rich with economic opportunities

HONORING OUR ARMED FORCES

STAFF SERGEANT WILLIAM R. FRITSCHE

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of the brave staff sergeant from Martinsville, IN. William Fritsche, 23 years old, died on July 29, 2007 from injuries sustained on July 27 near Kamu, Afghanistan, when his dismounted patrol received rocket-propelled grenade and small arms fire. With an optimistic future before him, William risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

William joined the Army at the age of 17 after graduating from Martinsville High School. After being deployed in Africa in 2004 and receiving several commendations, he was promoted to sergeant in April of 2005. He was chosen to serve in the Old Guard at Arlington National Cemetery, which is the oldest active-duty infantry unit. He was also selected in 2005 to be part of President Bush's inaugural procession in Washington, DC. It was during his most recent assignment to the 1st Squadron, 91st Cavalry Regiment, 173rd Airborne Brigade, based out of Vicenza, Italy, that he was killed while serving his country in Operation Enduring Freedom.

Today, I join William's family and friends in mourning his death. Although he was extremely proud of serving his country through military service, he prided himself most on his family. He was a devoted husband to Brandi and the loving son of Volitta, a detective in the Morgan County Sherriff's Department.

Martinsville High School administrators, faculty, and students referred to William as having a quiet intensity while being mature, focused, and determined with the ability to succeed at anything he tried. His high school's athletic director spoke highly of the former basketball player saying, ''He was one of those players, that if you were a coach, you loved to have on your team because of his work ethic and obviously as an athletic director, he was one of those kids that you love in your program, because he was such a good kid. He just represented you the way you wanted to be represented.''

William's final act was one of leadership and bravery. While other soldiers lay dead and wounded, he led a nine man patrol into battle, and according to the Army, his efforts saved other troops. Today and always, William will be remembered by family members, friends, and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of William, a memory that will burn brightly during these continuing days of conflict and grief.

As I search for words to do justice in honoring William's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of William's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of William R. Fritsche in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy, and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that William's family can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with William

Mr. LAUTENBERG. Mr. President, another month has passed, and more American troops lost their lives overseas in Iraq and Afghanistan. It is only right that we take a few moments in the U.S. Senate to honor them. Outside my office here in Washington, we have a tribute called ''Faces of the Fallen.'' Visitors to the Senate from across the country have stopped by the memorial. I encourage my colleagues to come see this tribute on the third floor of the Hart Building.

Since the end of June, the Pentagon has announced the deaths of 88 troops in Iraq and Afghanistan. They will not be forgotten. So today, I will read their names into the RECORD:

SGT Stephen R. Maddies of Elizabethton, TN;

CPL Jason M. Kessler of Mount Vernon, WA;

1LT Benjamin J. Hall, VA;

SPC Camy Florexil of Philadelphia, PA;

CPL Sean A. Stokes of Auburn, CA;

SSG Wilberto Suliveras of Humacao, Puerto Rico;

MAJ Thomas G. Bostick Junior of Llano, TX;

SSG William R. Fritsche of Martinsville, IN;

PFC Cody C. Grater of Spring Hill, FL;

SPC Daniel A. Leckel of Medford, OR;

PVT Michael A. Baloga of Everett, WA;

SGT William R. Howdeshell of Norfolk, VA;

SPC Charles E. Bilbrey Junior of Owego, NY;

SPC Jaime Rodriguez Junior of Oxnard, CA;

PFC Juan S. Restrepo of Pembroke Pines, FL;

SGT Courtney D. Finch of Leavenworth, KS;

SSG Joshua P. Mattero of San Diego, CA;

LCpl Robert A. Lynch of Louisville, KY;

CPL James H. McRae of Springtown, TX;

CPL Matthew R. Zindars of Watertown, WI;

1SG Michael S. Curry Junior of Dania Beach, FL;

SGT Travon T. Johnson of Palmdale, CA;

PFC Adam J. Davis of Twin Falls, ID;

PFC Jessy S. Rogers of Copper Center, AK;

Hospitalman Daniel S. Noble of Whittier, CA;

PFC Zachary R. Endsley of Spring, TX;

LCpl Bobby L. Twitty of Bedias, TX;

SGT Shawn G. Adams of Dixon, CA;

CPL Christopher G. Scherer of East Northport, NY;

SGT Jacob S. Schmuecker of Atkinson, NE;

SFC Luis E. Gutierrez-Rosales of Bakersfield, CA;

SPC Zachary R. Clouser of Dover, PA;

SPC Richard Gilmore the Third of Jasper, AL;

SPC Daniel E. Gomez of Warner Robbins, GA;

CPL Rhett A. Butler of Fort Worth, TX;

PFC Brandon M. Craig of Earleville, MD;

SGT Ronald L. Coffelt of Fair Oaks, CA;

PFC James J. Harrelson of Dadeville, AL;

PFC Ron J. Joshua Junior of Austin, TX;

PFC Brandon K. Bobb of Orlando, FL;

SGT Nathan S. Barnes of American Fork, UT;

CPO Patrick L. Wade of Key West, FL;

PO1 Class Jeffrey L. Chaney of Omaha, NE;

SPC Eric M. Holke of Crestline, CA;

LCpl Shawn V. Starkovich of Arlington, WA;
SGT John R. Massey of Judsonia, AR;
PFC Benjamin B. Bartlett Junior of Manchester, GA;
SPC Robert D. Varga of Monroe City, MO;
PFC Christopher D. Kube of Sterling Heights, MI;
SGT Allen A. Greka of Alpena, MI;
SGT Courtney T. Johnson of Garner, NC;
1SG Jeffrey R. McKinney of Garland, TX;
CAPT Maria I. Ortiz of Bayamon, Puerto Rico;
SGT Eric A. Lill of Chicago, IL;
MSG Randy J. Gillespie of Coaldale, CO;
CPL Kory D. Wiens of Independence, OR;
PFC Bruce C. Salazar Junior of Tracy, CA;
SGT Gene L. Lamie of Homerville, GA;
PFC Le Ron A. Wilson of Queens, NY;
CPL Jeremy D. Allbaugh of Luther, OK;
LCpl Steven A. Stacy of Coos Bay, OR;
LCpl Angel R. Ramirez of Brooklyn, NY;
COL Jon M. Lockey of Fredericksburg, VA;
SFC Sean K. Mitchell of Monterey, CA;
PFC Jason E. Dore of Moscow, ME;
SPC Jeremy L. Stacey of Bismarck, AR;
SPC Anthony M.K. Vinnedge of Okeana, OH;
SPC Roberto J. Causor Junior, of San Jose, CA;
SPC Michelle R. Ring, of Martin, TN;
MAJ James M. Ahearn, CA;
SGT Keith A. Kline of Oak Harbor, OH;
SPC Christopher S. Honaker of Cleveland, NC;
PFC Joseph A. Miracle of Ortonville, MI;
SGT Thomas P. McGee of Hawthorne, CA;
PO1 Jason Dale Lewis of Brookfield, CT;
PO1 Robert Richard McRill of Lake Placid, FL;
PO1 Steven Phillip Daugherty of Barstow, Ca;
CWO Scott A.M. Oswell, WA;
PFC Andrew T. Engstrom of Slaton, TX;
PFC Steven A. Davis of Woodbridge, VA;
1LT Christopher N. Rutherford of Newport, OH;
LCpl William C. Chambers of Ringgold, GA;
LCpl Jeremy L. Tinnel of Mechanicsville, VA;
LCpl Juan M. Garcia Schill of Grants Pass, OR;
SFC Raymond R. Buchan of Johnstown, PA;
SSG Michael L. Ruoff Junior of Yosemite, CA;
SPC Victor A. Garcia of Rialto, CA;
PFC Jonathan M. Rossi of Safety Harbor, FL.

To date, more than 3,600 American men and women have lost their lives in Iraq. And more than 400 have lost their lives in Afghanistan. We will not forget them and the Nation will not forget their sacrifice.

COURT SECURITY IMPROVEMENT ACT

Mr. LEAHY. Mr. President, one of the first actions I took this year was to reintroduce the Court Security Improvement Act of 2007, S. 378, on January 24, 2007. This bipartisan bill has a dozen cosponsors here in the Senate. In February we held a Judiciary Committee hearing at which we heard from Justice Anthony Kennedy. In March the Judiciary Committee considered and then reported the bill by unanimous consent.

I thank the majority leader and the assistant majority leader for their interest in these matters. Each has witnessed violence against judges in their home States. With their leadership, in April the Senate was called upon to consider the measure. I was amazed when it took a cloture motion to proceed to consideration of court security. Cloture on the motion to proceed was obtained by a vote of 93 to 3. Thereafter, this important measure was considered and passed by the Senate on April 19 by a unanimous vote of 97 to 0. Not a single Senator voted against it, not even those Senators who objected to proceeding to the bill initially or the three Senators who voted against cloture on the motion to proceed.

A companion bill was considered by the House of Representatives and passed on a voice vote. To resolve the remaining difference between the Senate-passed measure and the House-passed measure we sought to substitute the Senate-passed text into the House bill and to request a House-Senate conference. This is hardly a novel procedure. It is a standard way to resolve differences and to complete action on legislation. This routine request has cleared the Democratic side of the aisle here in the Senate. No Democratic Senator has objected to proceeding. But, once again, an anonymous objection on the Republican side is thwarting progress. Just as Republican Senators objected to proceeding to consider legislation to bolster court security in April, now, an anonymous Republican objection is preventing the Senate from acting, requesting a conference and moving forward to resolve the differences and enact this long overdue legislation. Despite the broad bipartisan support for both the Senate bill and for the House bill, we are being blocked from going to conference to resolve the minor differences between them by an anonymous Republican Senator.

This obstruction delays the useful provisions in these bills and threatens important safety measures for our Federal judges and their families. For our justice system to function, our judges must be able to dispense justice. They and their families must be free from the fear of retaliation. Witnesses who come forward must be protected, and the courthouses where our laws are enforced must be secure. We are in danger of letting this chance to improve the security of our Federal courts slip through our fingers. I am disappointed and troubled that we will not be improving the security for our Federal judges and courthouses around the Nation before we go into recess.

I hope that the Republican Senator who has placed this anonymous objection would remove it, to let us go to conference, and to let us improve the security that our Federal courts need.

BRIDGE DISASTER RELIEF

Mr. BAUCUS. Mr. President, I would like to enter into a brief colloquy with my colleague on the Environment and Public Works Committee regarding his understanding of congressional intent for monies authorized in the pending Minnesota, bridge disaster relief bill.

I want to clarify that this authorization comes from the general fund rather than the Highway Trust Fund. Is that your understanding?

Mr. INHOFE. If the chairman will yield, I concur completely with your understanding. As I read the language, it clearly comes from the general fund and not the Highway Trust Fund. Given the precarious situation with Highway Trust Fund finances, it would be a mistake to place further burdens on it, and as per SAFETEA–LU, all additional emergency repairs come from the general fund.

Mr. BAUCUS. I thank my colleague for his concurrence.

ASSISTANCE FOR ETHIOPIA

Mr. LEAHY. Mr. President, after the overthrow of Ethiopia's brutal former Prime Minister Mengistu, Prime Minister Meles Zenawi ushered in a period of hope and optimism. On May 15, 2005, Ethiopia held its first open multiparty elections. The international community praised the people of Ethiopia for an astounding 90 percent voter participation rate, an encouraging beginning to a new political process. The Ethiopian people deserve a democratic process in which opposition parties can organize and participate, and journalists can publish freely, without fear of arrest or retribution. Unfortunately, as it turned out, the 2005 election was not the turning point many had hoped for.

Early polls suggested the opposition Coalition for Unity and Democracy Party would make gains in the Ethiopian Parliament that could threaten the control of Prime Minister Meles' ruling Ethiopian People's Revolutionary Democratic Front. These reports were followed by credible allegations of manipulation of the vote-counting process. When the government finally announced results that assured its continued hold on power, thousands of people took to the streets in protest. The police arrested over 30,000 people and some 193 people were killed. Although most of the protesters were released soon after their arrest, 70 opposition leaders and journalists remained in prison.

Following these events, I wrote to Ethiopia's Ambassador Kassahun Ayele and officials at the State Department to express my concern with the imprisonment of the Ethiopian politicians. Human rights organizations and other international figures condemned the detentions and urged Prime Minister Meles to release them. These efforts were to no avail.

Some detainees remained in jail for over 2 years before being brought to trial in a manner that was incompatible with international standards of justice. Last month, they were convicted of such vague charges as ''outrage against the constitution'' and ''inciting armed opposition.'' They were

stripped of their rights to vote and to run for public office. Several were sentenced to life in prison. Nothing was done to prosecute the police officers who fired on the protesters. The situation had gone from bad to worse.

Then suddenly, less than 2 weeks ago, the Ethiopian Government announced the pardon and release of 38 opposition leaders. I am pleased that Prime Minister Meles heeded the pleas of the Ethiopian people and the international community and released these prisoners. The fact is, none of them should have been arrested or tried in the first place. Their release was long overdue and is welcome.

I hope the government acts expeditiously to release the remaining political detainees, and bring to justice police officers who used excessive force. I also hope the negotiations that resulted in the prisoners' release will lead to further discussions between the government and the leaders of the opposition, to ensure that their political rights are fully restored and that future elections are not similarly marred.

While this news is positive, it comes at a time when journalists and representatives of humanitarian organizations report human rights abuses of civilians, including torture, rape and extrajudicial killings, by Ethiopian security forces, including those trained and equipped by the U.S., in the Ogaden region.

Congressman DONALD PAYNE, chairman of the Subcommittee on Africa and Global Health, and a vocal defender of human rights and democracy in Ethiopia, inserted into the CONGRESSIONAL RECORD a June 18, 2007, New York Times article that described these abuses.

This situation is also addressed in the Senate version of the fiscal year 2008 State, Foreign Operations Appropriations bill and report, which were reported by the Appropriations Committee on July 10. The Appropriations Committee seeks assurance from the State Department that military assistance for Ethiopia is being adequately monitored and is not being used against civilians by units of Ethiopia's security forces. We need to know that the State Department is investigating these reports. We also want to see effective measures by the Ethiopian Government to bring to justice anyone responsible for such abuses.

Unfortunately, it appears that the Bush administration has made little effort to monitor military aid to Ethiopia. It is no excuse that the Ethiopian military has impeded access to the Ogaden, as it has done. In fact, this should give rise to a sense of urgency. If we cannot properly investigate these reports, and if the Leahy law which prohibits U.S. assistance to units of foreign security forces that violate human rights is not being applied because the U.S. Embassy cannot determine the facts, then we should not be supporting these forces.

As if the allegations of human rights violations were not enough, the New York Times reported on July 22 that the Ethiopian military is blocking food aid to the Ogaden region. The article also claimed that the military is ''siphoning off millions'' of dollars intended for food aid and a UN polio eradication program. A subsequent article on July 26 indicated that the World Food Program and the Ethiopian Government have reached agreement, after weeks of discussions, on a process for getting food aid through the military blockade to civilians in the Ogaden region. But the same article also reported that regional Ethiopian officials have expelled the Red Cross.

During the Cold War we supported some of the world's most brutal, corrupt dictators because they were anti-Communist. Their people, and our reputation, suffered as a result. Now the White House seems to support just about anyone who says they are against terrorism, no matter how undemocratic or corrupt. It is short sighted, it tarnishes our image, and it will cost us dearly in the long term.

Prime Minister Meles has been an ally against Islamic extremism in the Horn of Africa, for which we are grateful. But there are serious concerns with Ethiopia's U.S.-supported military invasion of Somalia. It has led to some of the same problems associated with the Bush administration's misguided decision to invade Iraq without a plan for leaving the country more stable and secure than before the overthrow of Saddam. Iraq's partition now seems only a matter of time, and it is hard to be optimistic that Somalia a year from now will be any more secure, or any less of a threat to regional stability, than before the influx of Ethiopian troops.

Ethiopia is also a poor country that has faced one natural or man-made disaster after another, and the U.S. has responded with hundreds of millions of dollars in humanitarian and other assistance. We have a long history of supporting Ethiopia and its people, and we want to continue that support. But our support to the government is not unconditional. We will not ignore the unlawful imprisonment of political opponents or the mistreatment of journalists. We will not ignore reports of abuses of civilians by Ethiopian security forces

WIRED FOR HEALTH CARE QUALITY ACT

Mr. GRASSLEY. Mr. President, I want to take a few minutes to explain the action I am taking related to S. 1693, the Wired for Health Care Quality Act. Today, with great reluctance, I have asked Republican Leader MCCONNELL to consult with us prior to any action regarding the consideration of this bill, which the Health, Education, Labor, and Pensions Committee reported on August 1, 2007.

The Wired for Health Care Quality Act would encourage the development of interoperable standards for health information technology, IT, offer incentives for providers to acquire qualified health IT systems to improve the quality and efficiency of health care, and facilitate the secure exchange of electronic health information. The bill also includes provisions to require all federal agencies to comply with standards and specifications adopted by the Federal Government for purposes determined appropriate by the Secretary of Health and Human Services, HHS, and to ensure quality measurement and reporting of provider performance under the Public Health Service Act.

I fully support fostering the adoption of health information technology to assist providers in making quality improvements in our health care system. In 2005, Senator BAUCUS and I introduced the Medicare Value Purchasing Act, S. 1356, in conjunction with Senators ENZI and KENNEDY's legislation known as the Better Healthcare Through Information Technology Act, S. 1355. Although the Medicare Value Purchasing Act did not pass in its entirety, provisions based on our bill have been enacted in other legislation.

Medicare is the single largest purchaser of health care in the Nation, so adopting quality payments in Medicare influences the level of quality in all of health care. We have seen time and time again how when Medicare leads, the other public and private purchasers follow. Medicare can drive quality improvement through payment incentives. The adoption of information technology is also desirable, both to facilitate the reporting of quality measures and to increase the efficiency and quality of our health care system. These two concepts should work together.

A number of legislative initiatives have been enacted in Medicare in recent years to promote the development and reporting of quality measures. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, MMA, included provisions that required the reporting of quality measures for inpatient hospitals. The Deficit Reduction Act of 2005 expanded the reporting of quality measures for inpatient hospital services and extended quality measures to home health settings.

Last year, the Tax Relief and Health Care Act of 2006, TRHCA, extended quality measure reporting to hospital outpatient services and ambulatory service centers. TRHCA also authorized the 2007 Physician Quality Reporting Initiative, PQRI, a voluntary quality reporting system in Medicare for physicians and other eligible health care professionals. Beginning July 1, 2007, the new PQRI program provides Medicare incentive payments for the successful reporting of quality measures that have been adopted or endorsed by a consensus organization. The Centers for Medicare and Medicaid Services, CMS, has worked diligently with the

American Medical Association Physician Consortium for Performance Improvement, the Ambulatory Quality Alliance, and the National Quality Forum in the development, adoption, endorsement, and selection of quality measures for this program.

Considerable time and effort have been devoted to the development and reporting of quality measures for various providers in Medicare under the Social Security Act. Many of these programs have now been up and running for some time. This is why I am greatly troubled that, as currently drafted, the Wired for Health Care Quality Act would require the development and reporting of quality measures under the Public Health Service Act.

It is hard to comprehend how the quality measurement system created by S. 1693 would interact with the various quality measurement programs that have already been enacted by Congress under the Social Security Act and implemented by CMS. Creating two different quality measurement systems would have the potential to create differing or even duplicative quality measurement systems which could drastically interfere with our common goal of improving the quality of health care in this country.

Under the bill, the Secretary also would establish Federal standards and implementation specifications for data collection. Within three years of their adoption, all Federal agencies would have to implement these standards according to the specifications. While this sounds appealing, I am concerned about the reality of implementing such standards—across the myriad programs at the Departments of Health and Human Services, Veterans Affairs, Defense, and all the other Federal agencies that may have health care data. It would be an enormous challenge. Agencies collect data for many different purposes, using many different data systems. Six years ago, when Secretary Thompson first arrived at the Department of Health and Human Services, the department had eight different computer systems. Presumably other agencies similarly have multiple systems. All will be expensive and difficult to retrofit to meet new federal standards.

The bill also would require the HHS Secretary to provide federal health data, including the Medicare claims databases, to at least three ''Quality Reporting Organizations'' that agreed to provide public reports based on the data.

The Quality Reporting Organizations would be required to release regular reports on quality performance that are provider- and supplier-specific. Any organization, including those with commercial interests, could request that the Quality Reporting Organizations compile specific reports based on the requester's methodology. So, for example, drug companies could request data on physician prescribing patterns to determine which physicians their salespeople should target.

In overseeing Medicare, Congress is working to bring more quality reporting into the program. As I mentioned before, just this past December Congress enacted the Tax Relief and Health Care Act of 2006, which implemented a physician pay-for-reporting program in Medicare. The Finance Committee has been working for some time now to phase-in the use of quality measures with various providers. Eventually, I hope that Medicare can compensate providers appropriately for providing high-quality care.

I am, however, concerned about public disclosure of provider-specific information without appropriate safeguards. If not used properly, the data could be misinterpreted. For example, hospitals that specialize in very difficult cases might seem to provide lower quality of care than those treating less severe cases. This would set up the wrong incentives for hospitals and other health care providers.

I agree that it would be helpful to standardize data reporting throughout the federal government, and to use that data appropriately to assess the quality of care provided by clinicians, hospitals, and other health care organizations. At the same time, I have serious concerns about how this bill is structured with respect to the disclosure and use of the data from federal health entitlement programs which are within the sole jurisdiction of the Finance Committee.

I welcome the opportunity to work with the sponsors of S. 1693, Senators KENNEDY, ENZI, CLINTON, and HATCH, along with members of the Health, Education, Labor, and Pensions Committee on this matter. I had hoped we could work out an agreement on legislative language that was acceptable to both the Finance Committee and the HELP Committee before the bill was on the floor. I appreciate the efforts that my colleagues, Senators ENZI and KENNEDY, have undertaken with us over the last month to resolve the concerns of the Finance Committee. However, I remain deeply troubled that, as currently drafted, the Wired for Health Care Quality Act could end up unintentionally delaying or frustrating the goal we all share of improving the quality of health care for all Americans.

REPORT OF SEC INVESTIGATION

Mr. GRASSLEY. Mr. President, today along with Senator SPECTER, I present the findings of a joint investigation by the minority staffs of the Committees on Finance and the Judiciary. It will be posted today on the Finance Committee Web site. I urge all my colleagues to read this important report.

Together, our committees conducted an extensive investigation of allegations raised by former Securities and Exchange Commission attorney Gary Aguirre concerning the SEC and insider trading at a major hedge fund.

During the course of this investigation, the staff reviewed roughly 10,000 pages of documents and conducted over 30 witness interviews. The Judiciary Committee held three related hearings. Our joint findings confirm a series of failures at the SEC: (1) Failures in its enforcement division, (2) failures in personnel practices, and (3) failures at the Office of Inspector General.

There was, however, one bright spot. The Chairman of the Securities and Exchange Commission cooperated fully with our inquiry. I would like to take a moment to thank Chairman Christopher Cox for recognizing the value of congressional oversight instead of resisting it like most other agencies do. In my years in the Senate, I have overseen many investigations of Federal agencies. I am happy to say that Chairman Cox—who inherited these problems in 2005—was a model of transparency and accountability.

I also thank Senator SPECTER for his hard work on this issue, and for the way our committees were able to work together so effectively.

Our investigation focused on three allegations: (1) The SEC mishandled its investigation of a major hedge fund, Pequot Capital Management. (2) The SEC fired Gary Aguirre, the lead attorney in the Pequot investigation, after he reported evidence of political influence corrupting the investigation. (3) The SEC's Office of Inspector General failed to thoroughly investigate Aguirre's allegations.

In 2001, Pequot made about $18 million in just a few weeks of trading in advance of the public announcement that General Electric was acquiring Heller Financial. Pequot accomplished this by buying over a million shares of Heller Financial and shorting GE stock. The New York Stock Exchange highlighted these suspicious and highly profitable trades for the SEC.

When the SEC finally got around to investigating the matter 3 years later, the only full-time attorney working on it, Mr. Aguirre, was up against an army of lawyers from Pequot and Morgan Stanley.

Those lawyers could easily bypass the commission staff and go directly to the Director of Enforcement. In other words, attorneys from Wall Street law firms had better access to SEC management than the staff attorney working on the case, and they used it.

When Aguirre wanted to question Wall Street executive John Mack, his supervisors blocked his efforts and delayed the testimony as long as they could. Mack was about to be hired as the CEO of Morgan Stanley. This raised a critical question in our investigation: Did Mack get special treatment, and if so, why? Gary Aguirre was told by one of his supervisors that it was because of his ''political connections.''

Our investigation uncovered no evidence that Mack's special treatment was due to partisan politics. However, internal e-mails do show that SEC

managers cared about something else: prominence—not partisanship.

They put hurdles in the way of taking Mack's testimony because he was an ''industry captain'' and well-known on Wall Street. His lawyers would have ''juice,'' according to SEC management—meaning they could easily pick up the phone and talk to senior officials three and four layers above Aguirre. Mack's prominence protected him from the initial SEC inquiry, protection that would not have been afforded to him had he been from Main Street rather than Wall Street.

Our investigation also found that Mr. Aguirre's firing from the SEC was closely connected to his objections to the special treatment afforded to John Mack. Unfortunately, that was not the only retaliation we found at the SEC. Another employee was also penalized for objecting to problems similar to Aguirre's. This sort of retaliatory firing of a whistleblower is not acceptable, and must be stopped.

Finally, our investigation found failures at the SEC's Office of Inspector General. When Mr. Aguirre presented the Inspector General's office with serious allegations, there was no attempt to conduct a serious, credible investigation.

The Inspector General merely interviewed SEC management, accepted their side of the story, and closed the case. This is unacceptable. It is the role of the inspector general to be an independent finder of fact, not a rubberstamp for agency management. I understand that the current inspector general is retiring, and his last day is today. I hope Chairman Cox chooses the next inspector general very carefully.

Our investigation has uncovered real failures at the SEC, and fixing these problems will take real reform. We have proposed six recommendations. These recommendations include the creation of a uniform, comprehensive manual of procedures for conducting enforcement investigations along the lines of the U.S. Attorney's Manual. If the SEC had such a manual, there would have been clear guidance regarding the standard for issuing a subpoena to any suspected tipper, whether John Mack or John Q. Public.

Other recommendations include the reform of the SEC's Office of Inspector General, firmer ethics requirements, and standardized evaluation procedures to prevent the sort of retaliatory personnel practices that took place with Gary Aguirre. By implementing real reforms such as those our report outlines, the SEC can begin to regain public confidence, and I look forward to working with the SEC as these reforms are implemented.

Mr. President, in closing, I ask unanimous consent to print in the RECORD, the report's executive summary and list of recommendations.

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

II. EXECUTIVE SUMMARY

Pequot's trades in advance of the GE acquisition of Heller Financial were highly suspicious and deserved a thorough investigation. In the weeks after a conversation with John Mack and prior to the public announcement of GE's acquisition of Heller, Pequot CEO Arthur Samberg purchased over one million shares of Heller Financial stock, and also shorted GE shares. On the day the deal was announced, Samberg sold all of the Heller stock. He also covered the short positions in GE shortly thereafter, for a total profit of about $18 million for Pequot in a matter of weeks.

The SEC examined only a fraction of the other suspicious Pequot trading highlighted by Self-Regulatory Organizations (SROs). GE-Heller represented just one of at least 17 sets of suspicious transactions involving Pequot brought to the SEC's attention by organizations like the NYSE and NASD. However, SEC managers ordered the staff to focus on only a few transactions. In addition to GE-Heller, the SEC investigated trades involving (1) Microsoft, (2) Astra Zeneca and Par Pharmaceutical, and (3) various ''wash sales.''

Staff Attorney Gary Aguirre said that his supervisor warned him that it would be difficult to obtain approval for a subpoena of John Mack due to his ''very powerful political connections.'' Aguirre's claim is corroborated by internal SEC e-mails, including one from his supervisor, Robert Hanson. Hanson also told Aguirre that Mack's counsel would have ''juice,'' meaning they could directly contact the Director or an Associate Director of Enforcement.

Attorneys for Pequot and Morgan Stanley had direct access to the Director and an Associate Director of the SEC's Enforcement Division. In January 2005, Pequot's lead counsel met with the SEC Director of Enforcement Stephen Cutler. Shortly thereafter, SEC managers ordered the case to be narrowed considerably. In June 2005, Morgan Stanley's Board of Directors hired former U.S. Attorney Mary Jo White to determine whether prospective CEO John Mack had any exposure in the Pequot investigation. White contacted Director of Enforcement Linda Thomsen directly, and other Morgan Stanley officials contacted Associate Director Paul Berger. Soon afterward, SEC managers prohibited the staff from asking John Mack about his communications with Arthur Samberg at Pequot.

Seeking John Mack's testimony was a reasonable next step in the investigation. Several SEC staff wished to take Mack's testimony because they believed he: (1) had close ties to Samberg, (2) had potential access to advanced knowledge of the deal, (3) had spoken to Samberg just before Pequot started buying Heller and shorting GE, and (4) was an investor in Pequot funds and was allowed to share in a lucrative direct investment in a (5) start-up company alongside Pequot, possibly as a reward for providing inside information.

SEC management delayed Mack's testimony for over a year, until days after the statute of limitations expired. After Aguirre complained about his supervisor's reference to Mack's ''political clout,'' SEC management offered conflicting and shifting explanations for blocking Mack's testimony. Although Paul Berger claimed that the SEC had always intended to take Mack's testimony, Branch Chief Mark Kreitman said that definitive proof that Mack knew about the GE-Heller deal was the ''necessary prerequisite'' for taking his testimony. The SEC eventually took Mack's testimony only after the Senate Committees began investigating and after Aguirre's allegations became public, even though it had not met Kreitman's prerequisite.

The SEC fired Gary Aguirre after he reported his supervisor's comments about Mack's ''political connections,'' despite positive performance reviews and a merit pay raise. Just days after Aguirre sent an e-mail to Associate Director Paul Berger detailing his allegations, his supervisors prepared a negative re-evaluation outside the SEC's ordinary performance appraisal process. They prepared a negative re-evaluation of only one other employee. Like Aguirre, that employee had recently sent an e-mail complaining about a similar situation where he believed SEC managers limited an investigation following contact between outside counsel and the Director of Enforcement.

After being contacted by a friend in early September 2005, Associate Director Paul Berger authorized the friend to mention his interest in a job with Debevoise & Plimpton. Although that was the same firm that contacted the SEC for information about John Mack's exposure in the Pequot investigation, Berger did not immediately recuse himself from the Pequot probe. Berger ultimately left the SEC to join Debevoise & Plimpton. When initially questioned, Berger's answers concerning his employment search were less than forthcoming.

The SEC's Office of Inspector General failed to conduct a serious, credible investigation of Aguirre's claims. The OIG did not attempt to contact Aguirre. It merely interviewed his supervisors informally on the telephone, accepted their statements at face-value, and closed the case without obtaining key evidence. The OIG made no written document requests of Aguirre's supervisors and failed to interview SEC witnesses whom Aguirre had identified in his complaint as likely to corroborate his allegations.

III. RECOMMENDATIONS

The controversy over allegations of improper political influence and the firing of SEC attorney Gary Aguirre garnered considerable media attention. The public airing of evidence in support of those allegations undoubtedly had an adverse impact on public confidence in the SEC. The damage to public confidence in the SEC as a fair and impartial regulator must be repaired if the agency is to be effective and able to fulfill its mission.

However, the controversy is more than merely an issue of perception. Our investigation uncovered real failures that need real solutions. Our recommendations focus on improving the Commission's approach to the management of complex securities investigations, personnel problems, the handling of ethics issues, and the role of the Inspector General. A more standardized, professional system for dealing with these issues could have averted much of the controversy. It could also improve employee morale and confidence in management by ensuring more consistent, documented, transparent, and careful internal deliberations.

For these reasons, we offer the following recommendations for consideration:

1. Standardized Investigative Procedures: The SEC should draft and maintain a uniform, comprehensive manual of procedures for conducting enforcement investigations, along the lines of the United States Attorney's Manual. The manual should attempt to address situations or issues likely to recur. It should set a consistent SEC policy where possible and provide general guidance for complex issues that require individual assessment on a case-by-case basis, so that inquiries are handled as uniformly as possible throughout the Enforcement Division.

2. Directing Resources to Significant and Complex Cases: The SEC currently lacks a set of objective criteria for setting staffing

levels and has no mechanism for designating a case as critically important. The SEC should set standards for assessing the size, complexity, and importance of cases to ensure that significant cases receive more resources. The Enforcement Division should develop and apply objective criteria for determining how many attorneys, paralegals, and support personnel should be assigned to a particular case.

3. Transparent and Uniform External Communications: The SEC should issue written guidance requiring supervisors to keep complete and reliable records of all outside communications regarding any investigation. The need for a clear record and transparency is especially acute regarding any communications by supervisors that exclude the staff attorney assigned to the case. The SEC's guidance should generally discourage supervisors from engaging in such communications without the knowledge or participation of the lead staff attorney. The SEC needs to present one, consistent position to parties involved in its investigations.

4. Greater Office of Inspector General (OIG) Independence and More Thorough Investigative Procedures: The hallmarks of any good Inspector General are independence and integrity. However, the reputation of the Inspector General within the SEC appears to be that of an office closely aligned with management, lacking independence. In addition to the facts of the Aguirre case, we received numerous complaints about the OIG from both current and former SEC employees. The OIG should develop a plan to ensure independence from SEC management and the General Counsel's Office, and to ensure that its future investigations of allegations against management are thorough, fair, and credible. The SEC needs to implement a directive requiring its Office of Information Technology to provide thorough and timely responses to SEC/OIG document requests. Since the purpose of the OIG is to ensure integrity and efficiency, a document request in connection with an SEC/OIG investigation should be among the highest priorities.

5. Timely and Transparent Recusals: The SEC should review its guidance to employees regarding their obligations to recuse themselves immediately from any matter involving a potential employer with whom the employee has had contact, either directly or indirectly through an agent. Recusals should be communicated in writing to all SEC staff who have official contact with the recused individual, and a record of the recusals should be centrally maintained by a designated ethics officer. The appearance created by having undisclosed contacts with potential employers while still participating in an enforcement matter involving that potential employer undermines public confidence in the fairness and impartiality of the SEC.

6. Standardized Evaluation Procedures: Employee evaluations should be submitted in a timely manner, according to an established schedule. Evaluations should not be prepared outside or apart from the established procedure. Although it is appropriate to document performance issues and to discuss them with the employee as the issues arise, submitting a re-evaluation with substantive changes after the regularly scheduled evaluation is submitted can raise questions. Where the re-evaluation occurs just after an employee reports alleged wrongdoing by a supervisor, it tends to suggest that retaliation is driving the process rather than an honest attempt to evaluate employee performance.

Mr. SPECTER. Mr. President, I seek recognition, along with my colleague from Iowa, Senator GRASSLEY, to inform the full Senate of the conclusion of our joint investigation into allegations of abuse of authority at the Securities and Exchange Commission and of the availability of our findings and recommendations. On January 31, 2007, Senator GRASSLEY and I came to the floor and submitted the ''Specter-Grassley Interim Findings on the Investigation Into Potential Abuse of Authority at the Securities and Exchange Commission.'' Senator GRASSLEY and I did not want to delay in expressing our concerns about, No. 1 the SEC's mishandling of the investigation of potential massive insider trading by a hedge fund which we recommended be reopened; No. 2, the circumstances of the termination of SEC attorney Gary Aguirre, who was leading the investigation; and No. 3, the manner in which the SEC's Inspector General's Office handled Aguirre's allegations that he was terminated for improper reasons, including pressing too hard to interview a witness in the investigation. We were concerned about what appeared to be managerial interference with the independence and doggedness of an SEC attorney who was determined to follow the evidence wherever it might lead.

Today, we file our comprehensive report and recommendations—comprising nearly 100 pages of annotated findings and recommendations—with the Senate Judiciary and Finance Committees. Before I summarize the key findings and recommendations, I must commend the SEC for two aspects of its response to Congress. First, the SEC, despite some initial disputes and letters relating to document production and privilege, ultimately cooperated fully with Congress by producing all requested documents and permitting all witnesses to be interviewed under oath and with a transcript. Second, Chairman Cox, the other Commissioners, and SEC Director of Enforcement Linda Thomsen have clearly been listening to concerns we raised about insider trading in general and in particular suspicious trading ahead of mergers on the part of hedge funds and others with access to material nonpublic information as a result of the intertwined relationships in our financial sector. Since the Judiciary Committee began holding hearings on insider trading and related fraud in June 2006, the SEC has filed a number of substantial civil cases—often in coordination with the Department of Justice, which handles criminal matters. Linda Thomsen testified at the Judiciary Committee hearing on September 26, 2006 that ''[r]igorous enforcement of our current statutory and regulatory prohibition on insider trading is an important part of the Commission's mission.'' This appears to be the case.

In February 2007, the SEC charged seven individuals and two hedge funds with insider trading ahead of announcements by Taro Pharmaceuticals Industries regarding earnings and FDA drug approvals. Four of the individuals were in their early thirties or younger and worked at major accounting and law firms.

In March 2007, the SEC and Federal prosecutors filed charges against a dozen defendants, including a former Morgan Stanley compliance officer who pleaded guilty in May 2007 to charges that she and her husband sold information about four deals—including Adobe Systems Inc.'s $3.4 billion purchase of Macromedia and the $2.1 billion acquisition of Argosy Gaming by Penn National Gaming, Inc.—to individuals who used the information in trading for hedge fund Q Capital Investment Partners and other accounts.

In March 2007, the SEC charged a 41-year-old UBS research executive with selling information about upcoming UBS upgrades and downgrades of the stock of Caterpillar, Goldman Sachs, and other companies. The information was then used in trading on behalf of hedge funds Lyford Cay, Chelsea Capital and Q Capital Investment Partners.

In May 2007, a 37-year-old Credit Suisse investment banker was charged with insider trading for leaking details of acquisitions involving nine publicly traded U.S. companies including the $45 billion takeover of TXU Corp by a private equity firm. He also leaked information on deals involving Northwestern Corporation, Energy Partners, Veritas DGC, Jacuzzi Brands, Trammel Crow Co., Hydril Company, Caremark RX, and John H. Harland Co.

In May 2007, the SEC accused a former analyst at Morgan Stanley and her husband, a former analyst in the hedge fund group at ING, of making more than $600,000 by trading on companies advised by Morgan Stanley's real estate subsidiary.

In May 2007, the SEC obtained a court order requiring Barclays Bank to pay $10.9 million—including a $6 million penalty—for insider trading based on material nonpublic information obtained by its head trader, who served on bankruptcy creditors committees.

In June 2007, the SEC filed a complaint alleging that a former bank vice president had traded in securities of a bank that he learned would be acquired by another bank.

In June 2007, the SEC filed a complaint alleging unlawful insider trading by the former managing partner of the Washington, DC office of a large law firm who learned of an imminent acquisition from a job candidate.

In July 2007, a court sentenced a corporate executive to a 6-year jail term, and ordered him to forfeit $52 million, in a case involving more traditional insider trading executed by a company executive in his own company's stock.

These aggressive enforcement efforts send a strong message to the public, and we commend the SEC for ensuring that action accompanies their assurances to Congress and to the public. I point out the ages of some of those charged because it strikes me that they may not have lived through the insider trading scandals of the 1980s that resulted in jail sentences for some very prominent businessmen. Though

time has passed since those scandals, there continues to be a need to reinforce that insider trading is a serious violation of the law. Following our hearings and investigation, the SEC appears to have reasserted itself.

On March 1, 2007, in announcing charges against 14 individuals in a brazen insider trading scheme, Chairman Cox stated: ''Our action today is one of several that will make it very clear the SEC is targeting hedge fund insider trading as a top priority.'' Linda Thomsen, Director of the SEC's Division of Enforcement, recently stated that the SEC has made insider trading ahead of mergers and acquisition one of its top priorities. Peter Bresnan, Deputy Director of the SEC's Division of Enforcement, stated in a CNBC interview on May 11, 2007: ''Hedge fund managers are under enormous pressure to show profits for their clients. . . . Not every hedge fund manager can get those kinds of returns through legitimate trading.'' Bruce Karpati, an Assistant Regional Director in the SEC's New York office stated in May 2007 that the SEC is ''actively studying the relationships that hedge funds have both inside the hedge funds and outside'' to see how information flows around financial markets and that the SEC is also looking at ''more complex trading strategies'' at hedge funds. Also in May 2007, when the SEC filed charges against a Hong Kong couple and alleged that they had illegally traded ahead of News Corp.'s offer to buy Dow Jones, Cheryl Scarboro, SEC Associate Enforcement Director, stated: ''Cases like this, insider trading ahead of mergers, are a top priority and we will continue our pursuit of it, no matter where it occurs.''

Finally, in early 2007 it was widely reported that the SEC had begun a factfinding study of the relationships that hedge fund advisers have with brokerages to determine if those contacts could have led to insider trading. The SEC had specifically requested information about stock and options trading by major firms. It is encouraging to see that the SEC's rhetoric is increasingly matched by real cases against those who subvert our capital markets through insider trading.

On the other hand, we agree with Peter Bresnan, who recently expressed dismay over the number of Wall Street professionals involved in these cases, from investment bankers and advisers to lawyers and accountants. ''When we see Wall Street professionals engage in insider trading, it is particularly reprehensible because we rely on them to keep the markets fair and clean.'' As I stated during the Judiciary Committee hearings, although disgorgement and civil penalties in these cases are a good start, I will continue to press for jail terms for those who engage in fraudulent conduct that harms other investors, especially when those who commit fraud are in positions of trust.

With respect to our investigation and final report, Senator GRASSLEY and I were primarily concerned about three aspects of a single case of insider trading: First, the handling of the investigation of what some at the SEC believed was one of the largest insider trading cases in recent history; second, the timing of the firing of Gary Aguirre, one of the lead investigators on the case; and third, the worse-than-cursory inspector general investigation of Mr. Aguirre's claims of improper discharge. All of this presented a troubling picture that centers on apparently lax enforcement by the SEC.

The alleged insider trading occurred in July 2001, several weeks before the public announcement that GE would purchase Heller Financial. During the lead-up to the announcement, Pequot CEO Arthur Samberg began purchasing large quantities of Heller Financial stock while also shorting GE stock. Two years later, the SEC began an investigation. Despite several promising leads, the investigation was left to wither when the lead attorney, Gary Aguirre, was abruptly fired with little explanation. When Aguirre complained to Commissioner Cox about the circumstances of the termination, Chairman Cox instructed the inspector general to investigate. The inspector general's staff, however, did so with the stated view that they were not going to ''second guess'' Aguirre's managers. Perhaps for this reason, the inspector general did not interview Aguirre or the other employees named in Aguirre's letters to Chairman Cox, choosing instead to accept the managers' explanations at face valueeven the explanations that were inconsistent with SEC procedures and some of the documentary evidence submitted by Aguirre.

What was Gary Aguirre investigating? As explained at our hearings, when an acquisition like the GE-Heller deal is announced, the price of the purchasing company typically falls and the price of the purchased company typically rises. This is an opportunity for guaranteed, quick and easy profits. Samberg directed the purchase of ''a little over a million shares'' of Heller stock. On several days, the shares he sought to purchase exceeded the total volume of trading that day. On January 30, 2002, the NYSE ''highlighted'' these trades for the SEC as a matter that warranted further scrutiny and surveillance. Yet it was not until 2004, when Gary Aguirre joined the Commission, that an investigation began in earnest. Mr. Aguirre became the driving force behind the investigation of the GE Heller trades.

Aguirre's immediate supervisors were initially enthusiastic about the investigation and the identification of John Mack as the possible tipper. On June 14, 2005, Mr. Aguirre's supervisors authorized him to speak to Federal prosecutors concerning the trades. His immediate manager, Robert Hanson, wrote in an e-mail on June 20, 2005, ''Okay Gary you've given me the bug. I'm starting to think about the case during my non work hours.'' But the enthusiasm quickly waned at some point after newspapers reported on June 23, 2005, that Morgan Stanley was considering hiring John Mack as its new CEO. Aguirre testified that the timing was no coincidence and that his supervisor, Robert Hanson, would not let him take Mack's testimony because of his ''powerful political contacts.'' Hanson later sent Aguirre e-mails that mentioned Mack's ''juice'' and ''political clout.'' Hanson, for his part, later explained that he simply wanted to make sure that the SEC had gotten ''their ducks in a row'' before taking drastic action.

Although reasonable minds may disagree on an appropriate investigative strategy, the SEC's stated rationale for delaying the taking of Mack's testimony runs counter to the normal approach described to the committees' staff by insider trading experts at the SEC. Hilton Foster, an experienced former SEC investor with knowledge of the Pequot matter, stated that ''as the SEC expert on insider trading, if people had asked me when do you take his testimony, I would have said take it yesterday.'' The explanation offered by Aguirre's supervisors—that without direct evidence that Mack had knowledge of the GE transaction, the deposition would consist simply of a denial by Mack—is not at all convincing since the SEC eventually did question Mack for over 4 hours in August 2006 without such direct evidence.

Mack's testimony was taken 5 days after the statute of limitations expired. We note that shortly after Aguirre's termination, the SEC Market Surveillance Branch Chief sought removal from the Pequot investigation, stating that ''something smells rotten.'' We note that this chief was a reluctant witness who came forward to the committees to do the right thing. Despite a number of such SEC employees, with Aguirre gone and a change in staff on the Pequot case, the trail seems to have grown cold and any evidence likely lost.

With respect to our recommendations, we start by noting that the committees adduced documents and testimony showing that Gary Aguirre, a probationary employee while at the SEC, was an experienced, smart, hardworking, aggressive attorney who was passionately dedicated to the Pequot investigation. These attributes were noted in a June 1, 2005, performance plan and evaluation. A more detailed ''Merit Pay'' evaluation written by Hanson on January 29, 2005, noted Aguirre's unmatched dedication ''to the Pequot investigation'' and ''contributions of high quality.'' These evaluations were submitted to the SEC's Compensation Committee, which approved a two-step salary increase recommendation on July 18, 2005. After these favorable reviews, Aguirre's managers wrote a ''supplemental evaluation,'' on August 1 that included negative assessments. The document was

never shared with Aguirre, who received a notice of termination exactly 1 month later, on September 1. To the extent that there was contemporaneous documentation, little appears to support the assertion that the decision to terminate was based on poor performance or employee misconduct, which leaves open the possibility that the discharge was for improper reasons.

More disturbing, however, is the cursory investigation of Aguirre's allegations by the SEC's Office of Inspector General, headed by Walter Stachnik. Chairman Cox referred the matter to Stachnik, who failed to interview Aguirre or any of the other SEC employees mentioned in Mr. Aguirre's letter. The IG's investigators repeatedly told staff that in investigating Mr. Aguirre's allegations of improper motivation for his termination that they ''don't second guess management decisions . . . [and they] don't second guess why employees are terminated.'' These statements are troubling. After speaking only to Aguirre's supervisors about the facts and accepting everything they said at face value, the IG staff reviewed only those documents identified by Aguirre's managers.

This is not a recipe for an independent and thorough investigation. Even after committee hearings, Stachnik insisted that his investigation was ''professional,'' but he did reopen the IG investigation. Unfortunately, as part of the reopened investigation, Stachnik sought documents in Aguirre's possession, including documents that were communications between Aguirre and the Senate. When Aguirre balked, Stachnik asked the Department of Justice to petition a Federal court to enforce the subpoena. If Chairman Cox had been able to obtain a timely, objective, and thorough consideration of Aguirre's concerns, the Pequot investigation may have been put back on track shortly after Aguirre's termination. Because the Chairman did not have the benefit of a careful review by the IG, we will never know what would have happened.

In light of this, and based on the committees' investigation, we make certain recommendations intended to help the SEC remedy obvious shortcomings in order for it to avoid an undermining of public confidence in the agency. The reputation of the SEC as a fair and impartial regulator must be restored. I note that through our investigation, we determined that what we have is not merely an issue of perception. There are real failures that need real solutions to improve the management of complex securities investigations; the handling of ethics concerns and issues; and personnel policies and procedures to increase employee morale and confidence in management and to ensure more consistency, transparency, and careful internal deliberations.

The SEC should draft and maintain a comprehensive manual of procedures for conducting enforcement investigations, along the lines of the U.S. Attorney's Manual. The manual should address situations and issues likely to recur, including a section outlining all SEC policies related to the issuance of subpoenas. It should set a consistent SEC policy and provide general guidance for complex issues that require individual assessment on a case-by-case basis.

Among other policy changes, the SEC should begin to conduct regularly scheduled, confidential employee surveys to measure confidence in senior management. Such responses should be reviewed and evaluated by the inspector general as potential predicates for audits, investigations, or recommendations to senior management. The SEC should also revise its policies on disclosing nonpublic information to third parties.

The SEC currently lacks a set of objective criteria for setting staffing levels and has no mechanism for designating a case as mission critical. The SEC should set standards for assessing the size, complexity, and importance of cases to ensure that significant cases receive more resources. The Enforcement Division should develop objective criteria for determining how many attorneys, paralegals, and support personnel should be assigned to a particular case. It may be unavoidable that the SEC often will have fewer resources than the entities the agency regulates, but effective staffing could help the SEC avoid being outmatched when it matters most.

The SEC should issue written guidance requiring supervisors to keep complete records of all external communications regarding any investigation. As a starting point for drafting such a policy, the SEC should review and consider adopting an approach similar to that of the Food and Drug Administration in 21 C.F.R. section 10.65. The need for a clear record and transparency is especially acute regarding any communications by supervisors that exclude the staff attorney assigned to the case. Allowing outside counsel and interested parties to circumvent the staff attorney by dealing separately with higher level officials may undermine the investigation and also undermine the goals of consistency, impartiality, and professionalism.

The SEC Office of Inspector General should develop a plan to ensure independence from SEC management and the General Counsel's Office. Such a plan must ensure that the SEC's investigations of allegations against management are thorough, fair, and credible. The OIG should submit its plan to Congress for review and followup oversight.

Equally as important, employees should have confidence that they have confidential alternate channels of communication through which both real problems and misperceptions may be resolved early and without public controversy. Personnel procedures should be regularly audited and reviewed to ensure that they are fairly and consistently applied.

All SEC inspector general audit and investigation reports should be available to Congress, on a confidential basis when appropriate. The detail, quality, and volume of reports from the Inspector General's Office need to be improved dramatically.

The SEC should review its guidance to employees regarding their obligations to disclose any connections with potential employers and recuse themselves from any matter involving those employers. The appearance created by having undisclosed contacts with potential employers while still participating in an enforcement matter involving that employer undermines public confidence in the fairness and impartiality of the SEC.

Employee evaluations should be submitted in a timely manner, according to an established schedule. Evaluations should not be prepared outside or apart from the established procedure. The process should be audited regularly, and supervisors who fail to follow the procedures should face meaningful consequences. Although it is appropriate to document and discuss performance issues as they arise, submitting a reevaluation with substantive changes after the regularly scheduled evaluation is submitted can raise questions—especially when it occurs just after an employee reports alleged wrongdoing by a supervisor.

In conclusion, I will comment on an issue that was the subject of much discussion during the investigation whether hedge funds should be subject to greater regulation. With baby boomers beginning to retire, pension funds are moving more of their assets out of fairly conservative stocks and bond portfolios and increasing their investments in hedge funds. This shift comes as hedge fund returns are cooling. As just one example, the Amaranth fund, which made risky bets on natural gas, collapsed in September 2006. On July 25, 2007, the Commodity Futures Trading Commission charged the fund and its chief energy trader with trying to manipulate the natural gas markets.

Hedge funds are fiercely protective of their trading strategies, and they are hard to value because they are not actively traded. Unlike mutual funds, they are not required to register with the SEC or disclose their holdings. In addition, they may borrow as much as 10 times their cash holdings to execute their investment strategies. For this reason, many say that there is an inconsistency between the high-risk, high-return concept behind hedge funds and the low-risk, guaranteed return goal of pension funds. Pension funds may have consultants and sophisticated money managers, but even they can be tripped up, as evidenced by the fact that Bear Stearns, a Wall street firm known for its caution and its expertise in bond-treading, notified clients this month that their investment

in two prominent hedge funds were worth pennies on the dollar. Those funds made bets on risky bonds backed by subprime mortgages.

Individuals, like managers of the pension funds of middle class workers, have also begun to increase their investments in hedge funds. Once limited to the wealthy, hedge funds are now available to retail investors through funds of funds. By pooling money, funds of funds allow investors who do not have the minimum investments or assets to gain access to the hedge fund club.

Because of my concern for these investors, I will continue to study the question of increased transparency and effective regulation of hedge funds.

PESTICIDE REGISTRATION IMPROVEMENT RENEWAL ACT

Mr. CHAMBLISS. Mr. President, I rise to express my support for the Pesticide Registration Improvement Renewal Act. It reauthorizes the highly successful Pesticide Registration Improvement Act, PRIA, which was modeled on the Prescription Drug User Fee Act and enacted as part of the 2004 omnibus appropriations bill.

PRIA authorized the U.S. Environmental Protection Agency, EPA, to collect service fees in order to help cover the cost of registering new pesticides. It also authorized EPA to continue to collect fees to review older pesticides. PRIA established a fee schedule for pesticide registration requests and set specific time periods for EPA to make regulatory decisions on pesticide registration and tolerance requests. The goal of PRIA was to create a more predictable and effective evaluation process for pesticide registration decisions and link the collection of individual fees with specific decision review periods.

PRIA was developed through the work of a unique coalition of environmental associations and the registrant community, which included agricultural and non-agricultural, antimicrobial, large, small, biotech, and biopesticide companies. This same coalition came together to develop this legislative proposal to reauthorize PRIA.

This is true consensus legislation. It clarifies the intent of the original law and continues the fee-for-service program, with some technical adjustments. Specifically, it increases and clarifies categories covered, uses maintenance fees for registration review, protects funds for grant programs, increases funding, and prevents free-riding.

I am pleased to cosponsor and support this legislation. I urge my colleagues to approve its reauthorization and continue the positive changes PRIA brought to the pesticide registration process.

OBJECTION TO RIZZO NOMINATION

Mr. WYDEN. Mr. President, most of my colleagues are well aware that I have been pushing for a ban on the practice of anonymous holds for several years. I believe that holds are an acceptable parliamentary tactic, but I firmly believe that it is inappropriate for Senators to use them secretly. If Senators wish to object to the consideration of a particular bill or executive nominee, they should be required to do so publicly, so that their objections can be discussed and debated in full view of the American people. Today, I am announcing my objection to any unanimous consent request to bring the nomination of John Rizzo to the Senate floor for approval.

The President has nominated Mr. Rizzo to be General Counsel of the Central Intelligence Agency, CIA. When Mr. Rizzo appeared before the Senate Select Committee on Intelligence a few weeks ago, I asked him about a now-infamous legal opinion that was prepared by the Department of Justice in 2002. This opinion, commonly known as the ''Bybee memo'' includes shocking interpretations of U.S. torture laws, and essentially concludes that inflicting any physical pain short of organ failure is not torture. Most Americans would agree that this conclusion is over the line, and this is why the Administration revoked the memo as soon as it became public.

John Rizzo was the acting general counsel of the CIA at that time, and I asked him if, in hindsight, he wished that he had objected to this memo. I was disappointed to hear him say, even with the benefit of five years' hindsight, that he did not.

Much more recently, about 2 weeks ago the President issued an Executive order interpreting Common Article Three of the Geneva Conventions and how it applies to CIA detentions and interrogations. This Executive order refers to classified CIA guidelines. I have read these guidelines, and I believe that they have suffered from a clear lack of effective legal oversight. Since John Rizzo is once again acting general counsel of the CIA, I believe that he bears significant responsibility for this situation. I am not at all convinced that the techniques outlined in these guidelines are effective, nor am I convinced that they stay within the law.

The last thing that I want to see is hard-working, well-intentioned CIA officers breaking the law because they have been given shaky legal guidance. These men and women dedicate their lives to serving their country, and they deserve better than that. They deserve to know that they are on firm legal ground when they are doing their jobs, and that they can rely on the legal advice of their general counsel.

I should also note that I disagree with the President's decision to interpret the Geneva Conventions as broadly as he did, although this does not excuse Mr. Rizzo from responsibility. The Director of National Intelligence, Mike McConnell, discussed these techniques on television recently and stated that he wouldn't want any Americans to undergo them. I don't think it would be acceptable to use these techniques on Americans either, but the President's new interpretation of the Geneva Conventions says that it is okay for other countries to use them on Americans when they are captured. This is also unacceptable.

I believe that you can fight terrorism ferociously without tossing aside American laws and American values, and I worry that the administration and CIA lawyers may be losing sight of this. I was disappointed to hear John Rizzo say that he did not wish he had objected to the 2002 torture memo, and I was even more disappointed when I read these guidelines. Our intelligence agencies cannot fight terrorism effectively unless programs like this one are on a solid legal footing. Mr. Rizzo's record demonstrates that he is prepared to let major programs go forward without a firm legal foundation in place.

This is why I have come to the conclusion that John Rizzo is not qualified to be the general counsel of the CIA. I plan to vote against Mr. Rizzo's confirmation in committee, and when it comes to the floor I will object to any unanimous consent agreement to consider his nomination until I am satisfied that our national counterterrorism programs, and particularly the CIA detention program, have the solid legal foundation that they need.

CFIUS

Mr. MARTINEZ. Mr. President, I applaud the signing of the Foreign Investment and National Security Act of 2007 by President Bush. After more than a year and a half of work, this critical piece of legislation was finally signed into law on July 26, 2007. I would also like to commend Chairman DODD and Senator SHELBY, my colleagues on the Banking Committee for their leadership in forging bipartisan legislation that will further protect critical U.S. assets and infrastructure from predatory foreign control.

This much needed legislation updates, reforms, and provides transparency to the review process conducted by the Committee on Foreign Investment in the United States, CFIUS. This Act will ensure national security while promoting foreign investment and the creation and maintenance of U.S. jobs. As we have seen over the last couple of years with the Dubai Ports and China National Offshore Oil Corporation, CNOOC, issues, greater oversight and transparency is needed for foreign investment in the United States.

This legislation also clarifies and expands the term ''national security'' to include those issues related to ''homeland security,'' including its application to critical infrastructure. The ct

also lays out additional factors to be considered during the CFIUS review process as they relate to our ''national security.''

I would like to address two of these factors today as they relate to a real threat in our hemisphere and to the United States. The act requires that CFIUS review any transaction related to major U.S. energy assets as part of our critical infrastructure and any covered transaction that would result in the control of any critical U.S. infrastructure by a foreign government or an entity controlled by a foreign government.

I raise these issues because I am particularly concerned by the recent, and ongoing, actions of Venezuelan President Hugo Chavez against U.S. oil companies in Venezuela. While Venezuela has undertaken many actions to the detriment of U.S. companies, President Chavez and Petroleos de Venezuela have been courting government-controlled Russian and Iranian oil interests to take their place.

It is no secret that Hugo Chavez is an enemy of the United States, the liberty and freedom we stand for, and the open and honest commerce that is the lifeblood of our economy. It is also no secret that President Chavez will use whatever assets are at his disposal to harm our country. The lone tool in his kit is Venezuela's oil and gas wealth.

Petroleos de Venezuela, S.A. already has a footprint in America through the ownership of CITGO Petroleum Corporation. While the CITGO gas stations you see on the roadsides and corners of American streets are franchised and owned largely by American small business men and women, these gas stations rely upon Petroleos de Venezuela and Hugo Chavez for their gas supply.

Because the revenue it generates supports the Venezuelan economy, we might think it is a far-fetched idea that Hugo Chavez and Petroleos de Venezuela would cut off oil and gas supplies to the United States, or other Nations. Yet one only has to look at the actions of the Russian Government to see how energy supplies can be used as an economic and political weapon against other nations.

The Russian strategy of using the power of energy assets as an economic tool began in 2003 when the Russian Government expropriated the assets of Yukos Oil, at that time, Russia's largest privately owned energy company. The Russian Government took Yukos assets without compensation to Yukos owners or investors and these assets also included $6 billion of U.S. investors' money.

In the winter of 2006, the Russian Government cut off natural gas exports to the Ukraine in an attempt to pressure the Ukrainian Government to slow its democratic reforms and move toward the West. Later in 2006, Russia also cut off crude shipments to Lithuania in an attempt to stop the sale of a refinery to a Polish competitor. And earlier this year, the Russian Government cut off shipments to Belarus to force that country to accept higher prices and turn its pipeline system over to Russian Government-controlled companies.

The Russian Government continues using heavyhanded tactics to move Western companies out of Russia so it can regain control of oil and gas reserves previously sold to these companies for development.

The comparisons of President Chavez's actions to renationalize Venezuela's oil and gas industry are eerily similar to those taken by the Russian Government. As Hugo Chavez increases his government's stranglehold on Venezuela's oil and gas supply, will he cut off supply to the United States, or other nations, in an attempt to influence economic and political events? Will he cut off supply to CITGO stations in the United States?

Reforms to the CFIUS process identifying energy infrastructure and energy security as national security interests, and the inclusion of these as factors to review when foreign-owned companies especially state-controlled companies with histories of using energy assets as political and economic tools will prevent Hugo Chavez and the Venezuelan Government from controlling additional energy assets here in the United States.

I applaud President Bush for signing this important measure and encourage the CFIUS panel to perform stringent reviews of any potential sale of critical U.S. energy infrastructure to a foreign-government controlled company and deny any sale to entities controlled by tyrants like Hugo Chavez who have a history of expropriating U.S. assets and who, no doubt, would be willing to use the control of these assets to threaten U.S. national security and our economic well-being.

MANUFACTURING

Mr. KOHL. Mr. President, the manufacturing sector is under siege from cheap imports, unfair trade agreements, and escalating heath care and energy costs. Instead of working to alleviate this burden, the Bush administration has turned its back on manufacturing. The administration slashed funding for the Manufacturing Extension Partnership, MEP, and the Advanced Technology Program, ATP, in this year's budget. MEP helps manufacturers streamline operations, integrate new technologies, shorten production times, and lower costs. ATP provides grants to support research and development of high-risk, cutting edge technologies. Both MEP and ATP help manufacturers survive and compete with countries such as China.

Today I offer, with Senator VOINOVICH, some help for beleaguered manufacturers. The Advanced Multidisciplinary Computing Software Center Act was drafted from recommendations made by the Council on Competitiveness regarding high-performance computing. The legislation would provide grants for the creation of five Advanced Computing Software Centers throughout the United States that would transfer high-performance computing technologies to small businesses and manufacturers.

High-performance computing will allow manufacturers to visualize and simulate parts and products before they can be created, which will cut the time and cost required to experiment with new materials. General Motors, for example, uses high-performance computing to simulate collisions, saving millions of dollars in development costs and substantially shortening design cycle times.

Presently, only large companies like GM have the resources to reap the benefits of high-performance computing. This bill would provide grants to small and medium manufacturers to implement this technology and create new opportunities for economic growth, job creation, and product development and allow manufacturers and businesses to harness the full potential of high-performance computing

TRIBUTE TO ROGER LANDRY

Ms. SNOWE. Mr. President, I rise today to mourn the passing of Roger Landry of Springvale, ME, and pay tribute to this former Maine State legislator and steadfast advocate for our Nation's veterans. Roger was one-of-a-kind individual who was truly a force of nature who allowed nothing to stand in the way of achieving results and helping others, and he had a unique ability to harness the compassion and empathy he felt so deeply to produce positive and tangible results that truly touched the hearts of so many. Whether serving his country as a highly decorated master sergeant in the U.S. Air Force for 23 years, providing a welcoming presence ceremonies to honor our returning troops, or fighting for better care for our heroic veterans, Roger was truly a benevolent force of nature who placed a premium on helping others, especially those servicemen and women who have given their all for this land.

Those in our State extraordinary enough to have worn our Nation's uniform never had a better friend or ally than Roger. He carried his tireless compassion, disarming humor, and can-do spirit to the Maine House of Representatives where his impact was felt immediately and where he sought common ground to advance the public good. We owe him an exceptional debt of gratitude for his enduring devotion to his State of Maine which he loved.

His service in the Military, in the State legislature, and as a citizen of Maine forged a legacy that should stand as an inspiration to us all—he will be greatly missed and forever remembered. Roger was a remarkable public servant and a dear friend—I will always cherish having known him. My thoughts and prayers continue to be

with his wife Jane, his children/Darrin, Dean, and Dawn, his eight grandchildren, and the entire Landry family

ADDITIONAL STATEMENTS

HONORING RON MIZUTANI

● Mr. AKAKA. Mr. President, today I wish to honor a great storyteller with a passion and deep empathy for the people of Hawaii. After a 20-year career in television journalism, Ron Mizutani announced this week that he will be leaving his post as news anchor and reporter for a top rated Honolulu newscast to pursue interests outside of journalism.

Ron exemplifies Hawaii's melting pot, our diverse human landscape rich with the contributions of unique cultures from around the Pacific and across the globe. His desire to make the islands he grew up in a better place for the future, while cherishing the cultures of old, is well known throughout Hawaii. Drawing on his personal heritage from Asia, Europe, and Hawaii's indigenous peoples, Native Hawaiians, Ron crossed cultural lines and played a major role in bringing the diverse people of Hawaii together into a cohesive unit.

In his writing, Ron was true to the language and style of the islands. A proud graduate of my alma mater, Kamehameha Schools, Ron's colleagues routinely turned to him whenever they needed help with the pronunciation of a Hawaiian word or a greater understanding of traditional practices.

Ron started his career as a sportscaster, and with time and experience moved into news reporting. He is one of the only in-studio anchors that would actually go out, get dirty and cover news in the field on location. As Ron's longtime photographer partner Greg Lau proudly recalls a day when an unusual storm generated high surf along the North-East shores of the islands, topping the beaches and coming into people's homes. Ron put his story second, jumping into the dangerous surf and ruining his clothes to help stack sandbags and salvage what could be saved. That was the part of the story viewers never knew, but colleagues certainly did.

Telling stories about the people, places, and issues facing the islands of Hawaii was Ron's kuleana, or duty. Ron took his kuleana seriously. His work captured the soul of the islands and he came to work every day with a mission to tell his story in a way that was compelling while remaining true to the issues at hand. More importantly, he refused to sensationalize the news.

Ron's storytelling ran the gamut: from entering homeless camps to tell the stories of the real people who had hit hard times amidst the islands' soaring property prices, following a local boy turned New York Mets hitter Benny Agbayani in his big moment in the World Series, the bittersweet celebration of a Native Hawaiian man who got his piece of Hawaiian Homelands after 50 years on a waiting list, to flying to the face of hurricanes to keeping Hawaii residents safe and informed, Ron always went to great lengths to shed light on stories he knew needed to be told.

Mr. President, Ron's contribution to Hawaii's understanding of itself and its people will be sorely missed. We wish him well in his future endeavors.●

TRIBUTE TO COLONEL RUSSELL M. OPLAND

● Mr. BIDEN. Mr. President, today I commend a distinguished public servant, the commander of Delaware Civil Air Patrol, COL Russell M. Opland.

Civil Air Patrol, CAP, is the official auxiliary of the U.S. Air Force, and is comprised entirely of civilian volunteers. It was formed on the shores of Delaware and New Jersey in 1941 to patrol coastal waters for enemy submarines. The wing commander is the senior corporate officer within a CAP Wing and is responsible to the Civil Air Patrol Corporation and to the regional commander for ensuring that corporate objectives, policies, and operational directives are executed within the Wing.

CAP has three missions: cadet programs, emergency services, and aerospace education. The cadet program provides youth, ages 12–21, the opportunity to serve their communities and develop into responsible citizens, inspiring them to become the next generation of pilots, engineers, mechanics, and aviation enthusiasts. As part of the emergency services mission, CAP performs 95 percent of inland aerial search and rescue missions in the continental U.S. CAP volunteers also perform homeland security, disaster relief, and counterdrug missions at the request of Federal, State, and local agencies.

Colonel Opland has led the Delaware Wing of the CAP since August 2003 and will step down on September 8, 2007. He has volunteered an average of 38 hours a week to the people of Delaware and the CAP cadets while still keeping his full time job as chief privacy and information security officer for the University of Pennsylvania Health System.

During his tenure as commander, Colonel Opland earned significant awards and honors including the following: four Exceptional Service Awards, three Meritorious Service Awards, the Gill Robb Wilson Award, No. 2074, Delaware Wing Senior Member of the Year, the Air Force Association, AFA, Award for Outstanding CAP Achievements, ''Outstanding'' rating as Commander, 2005 Wing Compliance Inspection, and ''Outstanding'' rating as Incident Commander, 2003 Evaluated SAR/DR exercise.

In addition to his personal awards, Colonel Opland led the Delaware Wing to national recognition. Despite the Wing's small size, Colonel Opland's attention to operational detail and discipline allowed the Delaware Wing to log the most flying hours of any CAP wing in the nation, resulting in the wing receiving three new aircraft. For each of the past four years, Delaware cadets participating in national drill team and/or color guard competitions placed third or higher.

I commend Colonel Opland for his dedication to aerospace education, to helping build young enthusiasts who believe in volunteering, and to the vital aerial missions that help keep Delaware and the Nation more secure. It is the tireless work of citizens like him that make this Nation great.

PROJECT COMPASSION

● Mrs. BOXER. Mr. President, today I honor the work of an organization dedicated to preserving the memory of our service men and women who have died on active duty since the terrorist attacks of September 11, 2001.

Project Compassion has dedicated itself to providing one gallery-quality portrait of every one of these fallen heroes to their designated next of kin at no cost to the family. Project Compassion started in the spring of 2003 in the State of Utah, when a local artist named Kaziah Hancock learned of the death of a fellow Utah resident who was serving in Iraq. She located the soldier's family and painted a free portrait for them as a gift of her appreciation. She then decided to paint as many portraits of our fallen men and women as her personal time and savings would allow. For more than 5 years, she has refused to take a single dollar from anyone who has received a painting.

And in these last 5 years, Project Compassion has never faltered in its mission to provide a tangible ''thank-you'' to the families of the brave men and women who have fallen in service to our country. That mission has required the addition of four more artists, all of whom dedicate their time to be a part of the effort. In November 2004, Project Compassion teamed up with Marie Woolf, a California-based creative media director, who agreed to manage and publicize the project. She worked to establish crucial relationships with the media, government, and the armed services to fulfill the Project Compassion mission.

All of the military services except for the Army now include Project Compassion information with the standard paperwork personally delivered by casualty officers. However, Project Compassion is one of the Army's few third party organizations approved to contact next of kin who have given their consent to be contacted. Project Compassion is also a member of America Supports You, a Defense Department program connecting citizens and corporations with military personnel and their families serving at home and abroad.

As of July, over 600 portraits have been completed and delivered to the

families of our fallen servicemen and women. Project Compassion has earned major international, national, local, and military media recognition of its unusual service, including from CNN, CBS, NBC, and PBS, and it is certainly well-deserved.

Mr. President, the story of Project Compassion is one of which we can all be proud. It is a story of everyday Americans bringing comfort to those who have lost a loved one in uniform. Ms. Hancock has taken her gifts as an artist and used them to honor people she has never met and never known. But she has stated that ''These soldiers and their families are our buddies, they are our family as Americans, and we love them.'' I am proud to honor the work of Project Compassion today.

HONORING HAL POTE

● Mr. BROWN. President, today I pay tribute to the life and legacy of Harold Pote. Hal, the founder and president of the Spina Bifida Foundation, SBF, passed away suddenly on June 26, 2007. My staff and I are deeply saddened by this loss, which is felt not only by his friends and family but by many of us on Capitol Hill. My staff and I first had the pleasure of becoming acquainted with Mr. Pote nearly 6 years ago when he began a campaign to increase congressional awareness of—and the national attention paid to—spina bifida, the Nation's most common, permanently disabling birth defect.

Hal's nephew Gregory was born with spina bifida almost 22 years ago. Spina bifida occurs in the first month of pregnancy when the spinal column does not close completely. In the United States, spina bifida occurs in approximately 7 out of 10,000 live births and currently there are 70,000 men, women, adolescents, and children living with spina bifida. Hal supported his nephew through more than 20 surgeries and was there to share in many wonderful moments, including the moment in 2004 when Gregory carried the Olympic torch. Hal was dedicated to ensuring that Gregory and others living with spina bifida enjoy a high quality of life. He also maintained a steadfast commitment to helping prevent spina bifida by promoting efforts to educate women of childbearing age about the importance of daily consumption of a multivitamin containing folic acid.

Hal joined with a group of colleagues to form the Spina Bifida Foundation in 1999. In its 8 years of existence, the SBF, under Hal's steadfast leadership, made remarkable progress on behalf of the spina bifida community. Not so long ago people born with spina bifida did not live past their teenage years. Thanks to research and outreach enabled in part by Hal's exceptionally effective foundation, many children with spina bifida are now living to be adults and are enjoying a higher quality of life than previous generations.

Hal's achievements go beyond his philanthropy and advocacy on behalf of people with spina bifida. He was born in Penns Grove, NJ, in 1946 and received his bachelor's degree in economics from Princeton in 1968, and his M.B.A. from Harvard Business School in 1972. In 1984, at the age of 37, he was named chairman and CEO of Fidelity Bank. Hal left Fidelity in 1989 and that same year co-founded the PFR, a private real estate group, which was later acquired by Prologis. In 1993, Hal cofounded the Beacon Group, a Manhattan-based investment partnership later acquired by Chase Manhattan. He led Chase's regional banking group and after that bank merged with JP Morgan he became chairman of retail financial services for JP Morgan Chase. After retiring from JP Morgan Chase, Hal returned to Philadelphia in 2006 to serve as CEO of the American Financial Realty Trust.

Hal Pote's sudden death is a tragedy. Yet his life was a triumph. I offer my heartfelt condolences to his family—his wife Linda Johnson, his mother Lucille Bock Pote, his two brothers Frank and Corey Pote, and his nephews.

I ask my colleagues to join me in celebrating the life and honoring the many achievements of this extraordinary man.

TRIBUTE TO BRADLEY BUTLER

● Mr. BUNNING. Mr. President, today I pay tribute to Bradley Butler of Paducah, KY, for his accomplishments in the 2007 SkillsUSA State Competition.

SkillsUSA is a national partnership of students, teachers and industry, working together to ensure America has a skilled workforce. SkillsUSA chapters help students who are preparing for careers in technical, skilled and service occupations excel. Formerly known as VICA, Vocational Industrial Clubs of America, SkillsUSA has more than 280,000 students and instructors as members annually.

Mr. Butler, a student at Paducah Area Technology Center and a junior at Paducah Tilghman High School, completed this competition as a gold medalist with a first place finish in related technical math. His success serves as an inspiration for his peers to achieve academically and give back to society.

I now ask my fellow colleagues to join me in congratulating Mr. Butler for his remarkable achievement and commitment to his education.

TRIBUTE TO MAYSVILLE COMMUNITY AND TECHNICAL COLLEGE

● Mr. BUNNING. Mr. President, today I pay tribute to the faculty and staff of Maysville Community and Technical College for their efforts in promoting student engagement, service learning, and community service.

Maysville Community and Technical College is an exceptional venue for Kentucky students wishing to continue their education. M.C.T.C. offers several degree, diploma, and certificate programs to the surrounding region. They also offer several opportunities through the Kentucky Virtual University and degree programs in association with Morehead State University, Lindsey Wilson College, Midway College, and Northern Kentucky University.

This year, Maysville Community and Technical College is working to increase levels of student engagement by promoting organized service activities and community-based partnerships in order to provide a valuable learning experience for its students. This initiative teaches students essential civic responsibility and critical networking skills, while improving the local community.

I now ask my fellow colleagues to join me in congratulating the Maysville Community and Technical College for creating a solid foundation for the future of Kentucky and the United States.

TRIBUTE TO ALLEN THOMPSON

● Mr. BUNNING. Mr. President, today I pay tribute to Allen Thompson of Hickory, KY, for his accomplishments in the 2007 SkillsUSA State Competition.

SkillsUSA is a national partnership of students, teachers and industry, working together to ensure America has a skilled workforce. SkillsUSA chapters help students who are preparing for careers in technical, skilled and service occupations excel. Formerly known as VICA, Vocational Industrial Clubs of America, SkillsUSA has more than 280,000 students and instructors as members annually.

Mr. Thompson, a student at Paducah Area Technology Center and a senior at Graves County High School, completed this competition as a gold medalist with a first place finish in board drafting. His success serves as an inspiration for his peers to achieve academically and give back to society.

I now ask my fellow colleagues to join me in congratulating Mr. Thompson for his remarkable achievement and commitment to his education.

RECOGNIZING ROGER MADSEN

● Mr. CRAPO. Mr. President, I would like to recognize an Idahoan who since 1995 has served four Idaho Governors as director of the Idaho Department of Labor and twice served as interim executive director of the Idaho Commission on the Arts. He also served as an Idaho assistant attorney general and as an Idaho State senator for 4 years. After 12 years, Roger Madsen is among the longest-serving State employment agency directors in the Nation, and he is my friend.

Roger has been a tireless volunteer for the betterment of his community and State. The list of his activities and leadership is long and prestigious. Roger has served as: delegate to the White House Conference on Families;

chair of the Governor's task force on unemployment insurance; vice chair of the Multiple Sclerosis Society; chair of the mayor's citizen's advisory panel on public housing; chair of the Governor's advisory council on worker's compensation; member of the job training and workforce development councils; member of the TechHelp science advisory board and the Governor's rural economic development committee; chair of the Idaho State Employee's United Way Campaign; cochair of Idaho Rural Partnership; and, cochair of the ''Katrina Evacuee Resettlement'' effort in Idaho.

Without hesitation and despite his weighty workload, Roger twice agreed to guide the Idaho Commission on the Arts through difficult periods and did so in an inimitable manner, with much gratitude on behalf of the staff and arts community. Additionally, he served as the interim director of the Idaho Disability Determination Services.

In 2005, the Idaho Department of Commerce and Labor received the William J. Harris Equal Opportunity Award for its ''commitment to intensifying assistance to minorities and ensuring those new to the State receive the same quality service as longtime Idaho residents.'' The annual award honors a work force agency administrator and the agency's equal opportunity officer for outstanding accomplishments. Under Madsen's leadership, the department increased its bilingual staff, doubled the number of female managers in local offices, increased the number of employees with disabilities and launched new programs such as special job search workshops in Spanish.

In June 2007, the International Association of Workforce Professionals named Director Roger Madsen as its Administrator of the Year for his leadership in economic and work force development in 2006, when average wages rose 5.6 percent and Idaho's growth in real gross state product led the Nation.

I recognize and commend Roger for his continued efforts and accomplishments on behalf of all of the citizens of Idaho. He is a great advocate for Idaho and I look forward to continuing to work with him on issues important to Idahoans.

NATIVE AMERICAN STUDENT ART COMPETITION

● Mr. DOMENICI. Mr. President, I would like to recognize three students from New Mexico who entered and were recognized in the Education: A Gift Without Boundaries, 2007 Native American Student Art Competition sponsored by the U.S. Department of Education, Office of Indian Education. There were almost 1,400 entries from 34 States in 6 events divided by age.

Native Americans put a very strong emphasis on their culture and in particular, art. Even though the art may be different from tribe to tribe, the universal importance of art is seen in the number of entrants and from the diverse geographic areas that they come from. The number of entrants also speaks to the immense support from teachers and parents in the Native American communities.

Deidra Lee, an eighth grader from Cecditai Middle School, won first place in the sixth- to eighth-grade division; Robert Francis, a 10th grader from Grants High School, won third place in the 9th–10th grade division; and Michael Curly, a 10th grader from Pine Hill School, won first place in the 11th–12th grade division. I ask that all three of these students be recognized for their accomplishments in the arts. These New Mexicans demonstrated a clear understanding of the importance of academic, cultural, and artistic education.●

TRIBUTE TO ROXCY O'NEAL BOLTON

● Mr. MARTINEZ. Mr. President, today I wish to commend the service and acts of South Florida's Roxcy O'Neal Bolton. She has made many contributions to women and society both locally and nationally. While she was born in Mississippi in 1926, Roxcy Bolton has made her mark in Florida over many long decades as a leading supporter of women's rights.

Mrs. Bolton has been the founder of many Florida organizations which have helped women. While a strong advocate of increasing opportunities for women in society, she still proudly embraced marriage and family life.

Married to a U.S. Navy commander named David Bolton—now deceased—they had three children together. In her life she has been an active wife, mother, and homemaker—all while supporting rights for women in Florida and beyond. Her good acts are well known.

A leading defender of, and advocate for, women who have been abused or suffered through domestic violence, Mrs. Bolton founded a nonprofit agency that provides rescue service, assistance to women in personal crisis, and emergency housing. This agency started after she personally took in four children and several women who were in situations of personal distress. I believe that is the definition of service—but it is just one example of Mrs. Bolton's kindness and vision.

At Jackson Memorial Hospital in Miami, she worked to establish one of the country's first rape treatment centers. Providing services and support over the decades to children, adolescents, and adult victims of sexual assault, the Roxcy Bolton Rape Treatment Center has helped more than 42,000 people and their families; and importantly, these services are provided at no cost to the victim.

Today, Roxcy Bolton is still caring for the women of Florida and remains dedicated to the rights of women everywhere. Through her dedicated work, she has lived a life of purpose. I am glad that we can call her one of Florida's own.

COMMENDING ANTHONY BURRUTO

● Mr. MARTINEZ. Mr. President, I rise today to commend a talented and courageous young American named Anthony Burruto. A rising seventh-grade student at Southwest Middle School in Orlando and a pitcher and first baseman for a Dr. Phillips Little League baseball team known as the Yankees, Anthony lives a fairly ordinary life; it is just that he is a rather extraordinary young man. Born without a fibula in his right leg or a shinbone in his left, he had his lower legs amputated as a baby. At the time, Anthony and his family were informed that surgery might one day make it possible for him to walk. Anthony, now 12, decided that walking would not be enough for him.

He started playing baseball nearly 5 years ago; hitting his first home run last November, he just recently finished the spring season with five—two of them Grand Slams. Amongst the league leaders in home runs for the spring season, Anthony has been an inspiration to everyone—his teammates, his opponents, the coaches, parents, and fans alike. Using two titanium and carbon-fiber prostheses, Anthony moves around well; be it on the baseball diamond or while playing baritone with his school's band, he embraces with confidence all of his opportunities.

In an Orlando Sentinel story written about Anthony, published earlier this year, one of his teammates was quoted as saying, ''He's always the one who gets everybody up in the dugout . . . He always sticks up for everybody when they have a problem.'' For a child who was born 2 months premature and weighed just a little more than 3 pounds, the aforementioned says much about his character and personality.

While Anthony and his parents Vinny and Diane long lived in New York, they have now been living in Orlando for the past 2 years. I am certainly proud to call them Floridians. The Burrutos have been very supportive of their only child; their love and devotion have certainly helped this talented young man to shine even more brightly. The Orlando community has also given great support to Anthony. As an Orlando resident, I have yet another reason to be thankful that my family and I call Orlando home.

There are now other people who have been picking up on the rising star that is Anthony Burruto. For instance, earlier this season when Major League Baseball's Tampa Bay Devil Rays hosted a three-game ''home stand'' at Disney's Wide World of Sports Complex in Orlando—the first regular season major league games ever played in the Orlando area—Anthony was asked to throw out the first pitch of the first game. On this momentous occasion, Anthony threw a strike. Additionally, the Devil Rays won.

The accolades continue to come. Right before the official start of summer, Anthony learned that he had made the Dr. Phillips Little League All-Star team—yet another incredible accomplishment for an impressive young man. His mother reports that he and his team did really well. And as further proof of Anthony's inspiring story, there was even a film crew from This Week in Baseball following him during part of his All-Star run.

Though given all of this praise, Anthony might respond much as he did in that Sentinel article. Commenting on ''able-bodied adults who say he's remarkable or inspirational,'' Anthony's response was, ''You just see things differently. To me, it's normal.'' This can-do attitude has brought Anthony many admirers at an early age—and I have every reason to believe that this young man will continue to inspire and succeed in ever bigger ways. I commend Anthony for his hard work, attitude, and approach to living. I encourage Anthony to keep swinging for the fences—he has already proven that he can knock the ball out of the park. On and off the diamond, we all know that Anthony Burruto is an All-Star.●

HONORING WANDA A. BROWN

● Mrs. MCCASKILL. Mr. President, I ask the Senate to join me today in congratulating Wanda A. Brown of Harrisonville, MO. Wanda has devoted her life to community journalism and community service. The Missouri Associated Press will induct Wanda into the Missouri Press Hall of Fame on September 7, 2007.

Wanda began her career in journalism in 1946 as copublisher of the Willow Springs News with her late husband J.W. Brown, Jr. With their purchase of the Harrisonville Democrat-Missourian in 1955, they were able to form the Cass County Publishing Company. Under Wanda's guidance as business manager, Cass County Publishing Company operated many of western Missouri's important publications including the Cass County Democrat-Missourian, Lee's Summit Journal, Belton Star Herald, Bates County Democrat and the Lawrence County Record. Wanda retired from publishing in 1985 after working in community journalism for 30 years.

The State of Missouri has benefited not only from Wanda's prolific career in journalism but also from her dedication to public service and philanthropy. Two generations of Cass County residents have known Wanda as the author of ''Wanda's Favorite Recipes'' which is a weekly column in the Democrat-Missourian. Wanda then turned these columns into two cookbooks. Proceeds from the first cookbook were donated to a local theater group, the Way Off Broadway Players, and from the second book to the Cass Medical Center Foundation.

The town of Harrisonville and the State of Missouri have been lucky to have Wanda as one of its prominent citizens, awarding her with honors such as the Harrisonville Area Chamber of Commerce President's Award and the Missouri Merit Mother of the Year Award.

Mr. President, I ask that the Senate join me in honoring Wanda A. Brown for her decades of dedicated service to the citizens of Missouri. We congratulate Wanda on her induction into the Missouri Press Hall of Fame.

IN HONOR OF PHYLLIS DUNN

● Mr. NELSON of Nebraska. Mr. President, today I celebrate the life of a beautiful Nebraskan on her 80th birthday.

Phyllis Schroeder Dunn was born on August 18, 1927, in Grand Island, NE. She has called Grand Island her home ever since.

With some help from her late husband Joseph Dunn, she gave birth to nine children, all at St. Francis Medical Center in Grand Island. A graduate of the St. Francis School of Nursing, her career as an emergency and operating room nurse spanned five decades.

Even as Phyllis Dunn celebrates her 80th birthday, she remains very active and is heavily involved in St. Leo's Catholic Church, her weekly quilting group at St. Mary's Cathedral, and following the exploits of her 16 grandchildren and 2 great-grandchildren.

Her story is typical of lifelong Nebraskans who are known for living long, healthy, happy and productive lives.

Nebraska is famous for being an agriculture state that helps feed the world but it is the people of Nebraska, like Phyllis Dunn, who are its heart and soul.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 5:34 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following bills:

S. 1. An act to provide greater transparency in the legislative process.

S. 375. An act to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes.

S. 975. An act granting the consent and approval of Congress to an interstate forest fire protection compact.

S. 1099. An act to amend chapter 89 of title 5, United States Code; to make individuals employed by the Roosevelt Campobello International Park Commission eligible to obtain Federal health insurance.

S. 1716. An act to amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to strike a requirement relating to forage producers.

H.R. 3206. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through December 15, 2007, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

At 6:50 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3311. An act to authorize additional funds for emergency repairs and reconstruction of the Interstate I–35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes.

At 8:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3161. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2008, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 31. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Elsinore Valley Municipal Water District Wildomar Service Area Recycled Water Distribution Facilities and Alberhill Wastewater Treatment and Reclamation Facility Projects; to the Committee on Energy and Natural Resources.

H.R. 176. To authorize the establishment of educational exchange and development programs for member countries of the Caribbean Community (CARICOM); to the Committee on Foreign Relations.

H.R. 180. An act to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 660. An act to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; to the Committee on the Judiciary.

H.R. 673. An act to direct the Secretary of the Interior to take lands in Yuma County,

Arizona, into trust as part of the reservation of the Cocopah Tribe of Arizona, and for other purposes; to the Committee on Indian Affairs.

H.R. 735. An act to designate the Federal building under construction at 799 First Avenue in New York, New York, as the ''Ronald H. Brown United States Mission to the United Nations Building''; to the Committee on Environment and Public Works.

H.R. 957. An act to amend the Iran Sanctions Act of 1996 to expand and clarify the entities against which sanctions may be imposed; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 986. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1315. An act to amend title 38, United States Code, to make certain improvements in the benefits provided to veterans under laws administered by the Secretary of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1696. An act to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo tribe to determine blood quantum requirement for membership in that Tribe; to the Committee on Indian Affairs.

H.R. 1700. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes; to the Committee on the Judiciary.

H.R. 2107. An act to create the Office of Chief Financial Officer of the Government of the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2120. An act to direct the Secretary of the Interior to proclaim as reservation for the benefit of the Sault Ste. Marie Tribe of Chippewa Indians a parcel of land now held in trust by the United States for that Indian tribe; to the Committee on Indian Affairs.

H.R. 2347. An act to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, companies that sell arms to the Government of Iran, and financial institutions that extend $20,000,000 or more in credit to the Government of Iran for 45 days or more, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2623. An act to amend title 38, United States Code, to prohibit the collection of copayments for all hospice care furnished by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

H.R. 2707. An act to reauthorize the Underground Railroad Educational and Cultural Program; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2722. An act to restructure the Coast Guard Integrated Deepwater Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2750. To require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 2765. An act to designate the facility of the United States Postal Service located at 44 North Main Street in Hughesville, Pennsylvania, as the ''Master Sergeant Sean Michael Thomas Post Office''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 2874. An act to amend title 38, United States Code, to make certain improvements in the provision of health care to veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 2963. An act 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; to the Committee on Indian Affairs.

H.R. 3067. An act to amend the United States Housing Act of 1937 to exempt small public housing agencies from the requirement of preparing an annual public housing agency plan; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3095. An act to amend the Adam Walsh Child Protection and Safety Act of 2006 to modify a deadline relating to a certain election by Indian tribes; to the Committee on the Judiciary.

H.R. 3123. An act to extend the designation of Liberia under section 244 of the Immigration and Nationality Act so that Liberians can continue to be eligible for temporary protected status under that section; to the Committee on the Judiciary.

H.R. 3159. An act to mandate minimum periods of rest and recuperation for units and members of the regular and reserve components of the Armed Forces between deployments for Operation Iraqi Freedom or Operation Enduring Freedom; to the Committee on Armed Services.

H.R. 3184. An act to authorize the Secretary of Agriculture to carry out a competitive grant program for the Puget Sound area to provide comprehensive conservation planning to address water quality; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 3248. An act to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 49. Concurrent resolution recognizing the 75th anniversary of the Military Order of the Purple Heart and commending recipients of the Purple Heart for their courage and sacrifice on behalf of the United States; to the Committee on Armed Services.

H. Con. Res. 136. Concurrent resolution expressing the sense of Congress regarding high level visits to the United States by democratically-elected officials of Taiwan; to the Committee on Foreign Relations.

H. Con. Res. 143. Concurrent resolution honoring National Historic Landmarks; to the Committee on Energy and Natural Resources.

H. Con. Res. 188. Concurrent resolution condemning the attack on the AMIA Jewish Community Center in Buenos Aires, Argentina, in July 1994, and for other purposes; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1974. A bill to make technical corrections related to the Pension Protection Act of 2006.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1361. An act to improve the disaster relief programs of the Small Business Administration, and for other purposes.

H.R. 3161. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2008, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 3, 2007, she had presented to the President of the United States the following enrolled bills:

S. 375. An act to waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United States to 2 Indian tribes in the State of Oregon, and for other purposes.

S. 975. An act granting the consent and approval of Congress to an interstate forest fire protection compact.

S. 1099. An act to amend chapter 89 of title 5, United States Code, to make individuals employed by the Roosevelt Campobello International Park Commission eligible to obtain Federal health insurance.

S. 1716. An act to amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to strike a requirement relating to forage producers.

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–2789. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving exports necessary to support the operation of a greenfield petrochemical plant in Saudi Arabia; to the Committee on Banking, Housing, and Urban Affairs.

EC–2790. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the disability-related complaints that air carriers operating within the United States received during calendar year 2006; to the Committee on Commerce, Science, and Transportation.

EC–2791. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenazaquin, 4-tert-butylphenethyl Quinazolin-4-yl Ether; Pesticide Import Tolerance'' (FRL No. 8141–3) received on August 2, 2007; to the Committee on Environment and Public Works.

EC–2792. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Agency's server and data center energy efficiency; to the Committee on Environment and Public Works.

EC–2793. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''AJCA Modifications to the Section 6112 Regulations'' ((RIN1545–BE28) (TD 9352)) received on August 2, 2007; to the Committee on Finance.

EC–2794. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''AJCA Modifications to the Section 6111 Regulations''

((RIN1545–BE26) (TD 9351)) received on August 2, 2007; to the Committee on Finance.

EC–2795. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''AJCA Modifications to the Section 6011 Regulations'' ((RIN1545–BE24) (TD 9350)) received on August 2, 2007; to the Committee on Finance.

EC–2796. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Severance of a Trust for Generation-Skipping Transfer Tax Purposes'' ((RIN1545–BC50) (TD 9348)) received on August 2, 2007; to the Committee on Finance.

EC–2797. A communication from the 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 2007–153—2007–160); to the Committee on Foreign Relations.

EC–2798. A communication from the Chief, Regulatory Management Division, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Temporary Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule for Certain Adjustment of Status and Related Applications'' (RIN1615–AB60) received on August 2, 2007; to the Committee on the Judiciary.

EC–2799. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report entitled ''Report of the Proceedings of the Judicial Conference of the United States for the March 2007 Session''; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Veterans' Affairs:

Special Report entitled ''Legislative and Oversight Activities During the 109th Congress by the Senate Committee on Veterans' Affairs'' (Rept. No. 110–141).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 428. A bill to amend the Wireless Communications and Public Safety Act of 1999, and for other purposes (Rept. No. 110–142).

By Mr. AKAKA, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 1163. A bill to amend title 38, United States Code, to improve compensation and specially adapted housing for veterans in certain cases of impairment of vision involving both eyes, and to provide for the use of the National Directory of New Hires for income verification purposes (Rept. No. 110–143).

By Mr. INOUYE, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1300. A bill to amend title 49, United States Code, to authorize appropriations for the Federal Aviation Administration for fiscal years 2008 through 2011, to improve aviation safety and capacity, to modernize the air traffic control system, and for other purposes (Rept. No. 110–144).

By Mr. KERRY, from the Committee on Small Business and Entrepreneurship:

Special Report entitled ''Summary of Legislative and Oversight Activities During the 109th Congress'' (Rept. No. 110–145).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute and an amendment to the title:

S. 898. A bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1183. A bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Leslie Southwick, of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Rosa Emilia Rodriguez-Velez, of Puerto Rico, to be United States Attorney for the District of Puerto Rico for the term of 4 years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

EXECUTIVE FINANCIAL DISCLOSURE REPORT

Mark Green, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania:

Nominee: Mark Green.

Post: Ambassador to Tanzania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: Susan Green, none.

3. Children: Rachel Green, none; Anna Green, none; Alex Green, none.

4. Parents: Jeremy Green, none; Elizabeth Green, $43, 5/27/2003, Green for Congress; $100, 12/12/2003, Green for Congress; $50, 12/15/2003, Green for Congress; $50, 12/16/2004, Green for Congress.

5. Grandparents: Frank Green, deceased; Ruth Green, deceased; Ernest Sidney Roome, deceased; Mary Olive Roome, Deceased.

6. Brothers and spouses: Adam Green, none; Karin Green, none; Chris Green, $100, 5/10/2007, Tommy Thompson for President; Heidi Green, $100, 5/26/2004, Green for Congress.

7. Green for Congress, $500, 4/1/2003, Gingrey for Congress; $500, 4/1/2003, Renzi for Congress; $500, 4/1/2003, Chocola for Congress; $500, 4/1/2003, Burns for Congress; $500, 4/1/2003, Gerlach for Congress; $2,000, 10/1/2003, Bush/Cheney '04; $1,000, 12/22/2003, Alice Forgy Kerr for Congress; $1,000, 10/8/2004, Wohlgemuth for Congress; $12,000, 10/8/2004, National Republican Congressional Committee (NRCC); $13,000, 10/8/2004, National Republican Congressional Committee (NRCC); $12,000, 10/27/2004, National Republican Congressional Committee (NRCC).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. ALLARD (for himself and Mr. REED):

S. 1985. A bill to improve access of senior homeowners to capital; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 1986. A bill to authorize the Secretary of Treasury to prescribe the weights and the compositions of circulating coins, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW (for herself, Mr. KERRY, Mrs. CLINTON, Mr. LEVIN, Ms. MIKULSKI, Mrs. MCCASKILL, and Ms. CANTWELL):

S. 1987. A bill to amend the Internal Revenue Code of 1986 to provide for alternative motor vehicle facility bonds; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. SMITH, Ms. KLOBUCHAR, and Mr. LIEBERMAN):

S. 1988. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for the purchase of a principal residence by a first-time homebuyer; to the Committee on Finance.

By Mr. OBAMA:

S. 1989. A bill to provide a mechanism for the determination on the merits of the claims of claimants who met the class criteria in a civil action relating to racial discrimination by the Department of Agriculture but who were denied that determination; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. INOUYE, and Mr. SANDERS):

S. 1990. A bill to amend part D of title III of the Public Health Service Act to authorize grants and loan guarantees for health centers to enable the centers to fund capital needs projects, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BUNNING:

S. 1991. A bill to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of extending the Lewis and Clark National Historic Trail to include additional sites associated with the preparation and return phases of the expedition, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. MCCASKILL:

S. 1992. A bill to preserve the recall rights of airline employees, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BROWN:

S. 1993. A bill to modify the boundary of the Hopewell Culture National Historical Park in the State of Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR (for himself, Mr. ROBERTS, Mrs. FEINSTEIN, and Mr. CRAPO):

S. 1994. A bill to amend the Internal Revenue Code of 1986 to exempt certain farmland from the estate tax; to the Committee on Finance.

By Mr. SALAZAR (for himself, Mr. CHAMBLISS, Mr. TESTER, Mr. ISAKSON, and Mr. BURR):

S. 1995. A bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. BURR, and Mrs. MURRAY):

S. 1996. A bill to reauthorize the Enhancing Education Through Technology Act of 2001, and for other purposes; to the Committee on Health , Education, Labor, and Pensions.

By Mrs. MCCASKILL:

S. 1997. A bill to require all new and upgraded fuel pumps to be equipped with automatic temperature compensation equipment, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN (for himself, Mr. HAGEL, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. DODD, Mrs. MURRAY, and Mr. JOHNSON):

S. 1998. A bill to reduce child marriage, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. HAGEL, Mr. DOMENICI, and Mr. OBAMA):

S. 1999. A bill to provide for the establishment of a Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries, and for other purposes; to the Committee on Armed Services.

By Mr. DODD (by request):

S. 2000. A bill to amend and extend the Export Administration Act of 1979 and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN (for himself, Ms. LANDRIEU, and Mr. COLEMAN):

S. 2001. A bill to amend the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself, Mr. SALAZAR, Mr. SMITH, and Mr. KERRY):

S. 2002. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts, and for other purposes; to the Committee on Finance.

By Ms. COLLINS (for herself, Mr. WARNER, and Mr. VOINOVICH):

S. 2003. A bill to facilitate the part-time reemployment of annuitants, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. MURRAY (for herself and Mr. CRAIG):

S. 2004. A bill to amend title 38, United States Code, to establish epilepsy centers of excellence in the Veterans Health Administration of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. CLINTON (for herself, Mr. SANDERS, and Mrs. MURRAY):

S. 2005. A bill to amend the Public Health Service Act to provide education on the health consequences of exposure to secondhand smoke, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 2006. A bill to provide for disaster assistance for power transmission and distribution facilities, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN:

S. 2007. A bill to amend part B of title XVIII of the Social Security Act to provide a floor of 1.0 for the practice expense and for the work expense geographic practice cost indices (GPCI) under the Medicare Program; to the Committee on Finance.

By Ms. LANDRIEU:

S. 2008. A bill to reform the single family housing loan guarantee program under the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. KLOBUCHAR (for herself and Mr. COLEMAN):

S. 2009. A bill to authorize additional funds for emergency repairs and reconstruction of the Interstate I-35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LIEBERMAN:

S. 2010. A bill to require prisons and other detention facilities holding Federal prisoners or detainees under a contract with the Federal Government to make the same information available to the public that Federal prisons and detention facilities are required to do by law; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. ROCKEFELLER):

S. 2011. A bill entitled ''The Protect America Act of 2007''; read twice.

By Mr. THUNE:

S. 2012. A bill to amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to extend the period of emergency financial assistance to certain individuals and entities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWN (for himself and Mr. VOINOVICH):

S. 2013. A bill to initially apply the required use of tamper-resistant prescription pads under the Medicaid Program to schedule II narcotic drugs and to delay the application of the requirement to other prescription drugs for 18 months; to the Committee on Finance.

By Mr. BROWN (for himself, Mrs. CLINTON, and Mr. SANDERS):

S. 2014. A bill to provide for statewide longitudinal data systems to improve elementary and secondary education, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL:

S. 2015. A bill to increase the economic pressure on terror sponsoring states, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself, Mr. INOUYE, Ms. CANTWELL, Ms. SNOWE, Ms. MURKOWSKI, Mr. SUNUNU, Mr. COCHRAN, Mr. KERRY, Ms. COLLINS, Mrs. MURRAY, and Mrs. BOXER):

S.J. Res. 17. A joint resolution directing the United States to initiate international discussions and take necessary steps with other Nations to negotiate an agreement for managing migratory and transboundary fish stocks in the Arctic Ocean; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

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

S. Res. 299. A resolution recognizing the religious and historical significance of the festival of Diwali; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Ms. SNOWE, and Mr. OBAMA):

S. Res. 300. A resolution expressing the sense of the Senate that the Former Yugoslav Republic of Macedonia (FYROM) should stop the utilization of materials that violate provisions of the United Nations-brokered Interim Agreement between FYROM and Greece regarding ''hostile activities or propaganda'' and should work with the United Nations and Greece to achieve longstanding United States and United Nations policy goals of finding a mutually-acceptable official name for FYROM; to the Committee on Foreign Relations.

By Mrs. LINCOLN (for herself and Mr. PRYOR):

S. Res. 301. A resolution recognizing the 50th anniversary of the desegregation of Little Rock Central High School, one of the most significant events in the American civil rights movement; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself, Mr. HARKIN, and Mrs. BOXER):

S. Res. 302. A resolution censuring the President and Vice President; to the Committee on Foreign Relations.

By Mr. FEINGOLD (for himself and Mr. HARKIN):

S. Res. 303. A resolution censuring the President and the Attorney General; to the Committee on the Judiciary.

By Mr. SUNUNU (for himself and Mr. GREGG):

S. Res. 304. A resolution congratulating Charles Simic on being named the 15th Poet Laureate of the United States of America by the Library of Congress; considered and agreed to.

By Mr. SPECTER (for himself, Mr. HARKIN, and Mr. LAUTENBERG):

S. Res. 305. A resolution to express the sense of the Senate regarding the Medicare national coverage determination on the treatment of anemia in cancer patients; to the Committee on Finance.

By Mr. REID:

S. Con. Res. 43. A concurrent resolution providing for a conditional adjournment or recess of the Senate, and a conditional adjournment of the House of Representatives; considered and agreed to.

ADDITIONAL COSPONSORS

S. 399

At the request of Mr. BUNNING, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 399, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the Medicaid program.

S. 402

At the request of Mrs. LINCOLN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 402, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 431

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 431, a bill to require convicted sex offenders to register online identifiers, and for other purposes.

S. 450

At the request of Mr. ENSIGN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 450, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 456

At the request of Mrs. FEINSTEIN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 456, a bill to increase and

enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to expand and improve gang prevention programs, and for other purposes.

S. 558

At the request of Mr. CORKER, his name was added as a cosponsor of S. 558, a bill to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

At the request of Mr. KENNEDY, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 558, supra.

S. 576

At the request of Mr. OBAMA, his name was added as a cosponsor of S. 576, a bill to provide for the effective prosecution of terrorists and guarantee due process rights.

S. 580

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 580, a bill to amend the National Trails System Act to require the Secretary of the Interior to update the feasibility and suitability studies of four national historic trails, and for other purposes.

S. 600

At the request of Mr. SMITH, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 600, a bill to amend the Public Health Service Act to establish the School-Based Health Clinic program, and for other purposes.

S. 771

At the request of Mr. HARKIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 771, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren by updating the definition of ''food of minimal nutritional value'' to conform to current nutrition science and to protect the Federal investment in the national school lunch and breakfast programs.

S. 775

At the request of Mr. CARPER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 775, a bill to establish a National Commission on the Infrastructure of the United States.

S. 791

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 791, a bill to establish a collaborative program to protect the Great Lakes, and for other purposes.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 814

At the request of Mr. SPECTER, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 814, a bill to amend the Internal Revenue Code of 1986 to allow the deduction of attorney-advanced expenses and court costs in contingency fee cases.

S. 881

At the request of Mrs. LINCOLN, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 881, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 932

At the request of Mrs. LINCOLN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 932, a bill to amend title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat Medicare beneficiaries without a requirement for a physician referral, and for other purposes.

S. 970

At the request of Mr. SMITH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 970, a bill to impose sanctions on Iran and on other countries for assisting Iran in developing a nuclear program, and for other purposes.

S. 1015

At the request of Mr. COCHRAN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1015, a bill to reauthorize the National Writing Project.

S. 1160

At the request of Ms. STABENOW, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1160, a bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1196

At the request of Mr. LIEBERMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1196, a bill to improve mental health care for wounded members of the Armed Forces, and for other purposes.

S. 1259

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1259, a bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes.

S. 1328

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1328, a bill to amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

S. 1338

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1338, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

S. 1356

At the request of Mr. BROWN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1356, a bill to amend the Federal Deposit Insurance Act to establish industrial bank holding company regulation, and for other purposes.

S. 1390

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1390, a bill to provide for the issuance of a ''forever stamp'' to honor the sacrifices of the brave men and women of the armed forces who have been awarded the Purple Heart.

S. 1545

At the request of Mr. ALEXANDER, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1545, a bill to implement the recommendations of the Iraq Study Group.

S. 1572

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1572, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1605

At the request of Mr. CONRAD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1605, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 1628

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1628, a bill to amend the Public Health Service Act to authorize programs to increase the number of nurse faculty and to increase the domestic nursing and physical therapy workforce, and for other purposes.

S. 1638

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1638, a bill to adjust the salaries of Federal justices and judges, and for other purposes.

S. 1651

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 1651, a bill to assist certain Iraqis who have worked directly with, or are threatened by their association with, the United States, and for other purposes.

S. 1669

At the request of Ms. STABENOW, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1669, a bill to amend titles XIX and XXI of the Social Security Act to ensure payment under Medicaid and the State Children's Health Insurance Program (SCHIP) for covered items and services furnished by school-based health clinics.

S. 1730

At the request of Mr. SMITH, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1730, a bill to amend part A of title IV of the Social Security Act, to reward States for engaging individuals with disabilities in work activities, and for other purposes.

S. 1744

At the request of Mrs. BOXER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1744, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 1755

At the request of Mr. CASEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to make permanent the summer food service pilot project for rural areas of Pennsylvania and apply the program to rural areas of every State.

S. 1795

At the request of Mr. KENNEDY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1795, a bill to improve access to workers' compensation programs for injured Federal employees.

S. 1823

At the request of Mrs. CLINTON, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1823, a bill to set the United States on track to ensure children are ready to learn when they begin kindergarten.

S. 1825

At the request of Mr. WEBB, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1825, a bill to provide for the study and investigation of wartime contracts and contracting processes in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 1843

At the request of Mr. KENNEDY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1843, a bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to clarify that an unlawful practice occurs each time compensation is paid pursuant to a discriminatory compensation decision or other practice, and for other purposes.

S. 1895

At the request of Mr. REED, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1895, a bill to aid and support pediatric involvement in reading and education.

S. 1898

At the request of Mrs. CLINTON, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1898, a bill to amend the Family and Medical Leave Act of 1993 to expand family and medical leave for spouses, sons, daughters, and parents of servicemembers with combat-related injuries.

S. 1934

At the request of Mr. CARDIN, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 1934, a bill to extend the existing provisions regarding the eligibility for essential air service subsidies through fiscal year 2012, and for other purposes.

S. 1953

At the request of Mr. FEINGOLD, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1953, a bill to amend the Agricultural Manufacturing Act of 1946 to require labeling of raw agricultural forms of ginseng, including the country of harvest, and for other purposes.

S. 1963

At the request of Mr. ROCKEFELLER, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1963, a bill to amend the Internal Revenue Code of 1986 to allow bonds guaranteed by the Federal home loan banks to be treated as tax exempt bonds.

S. 1965

At the request of Mr. STEVENS, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1965, a bill to protect children from cybercrimes, including crimes by online predators, to enhance efforts to identify and eliminate child pornography, and to help parents shield their children from material that is inappropriate for minors.

S. 1970

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1970, a bill to establish a National Commission on Children and Disasters, a National Resource Center on Children and Disasters, and for other purposes.

S. 1975

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1975, a bill to expand family and medical leave in support of servicemembers with combat-related injuries.

S. RES. 178

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. Res. 178, a resolution expressing the sympathy of the Senate to the families of women and girls murdered in Guatemala, and encouraging the United States to work with Guatemala to bring an end to these crimes.

S. RES. 269

At the request of Mr. LAUTENBERG, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. Res. 269, a resolution expressing the sense of the Senate that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued in honor of former United States Representative Barbara Jordan.

S. RES. 296

At the request of Mr. STEVENS, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 296, a resolution designating September 2007 as ''National Youth Court Month''.

AMENDMENT NO. 2063

At the request of Mr. SPECTER, his name was added as a cosponsor of amendment No. 2063 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2125

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 2125 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction,

and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2208

At the request of Mr. SPECTER, his name was added as a cosponsor of amendment No. 2208 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2647

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. CARDIN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 2647 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROCKEFELLER (for himself, Mr. INOUYE, and Mr. SANDERS):

S. 1990. A bill to amend part D of title III of the Public Health Service Act to authorize grants and loan guarantees for health centers to enable the centers to fund capital needs projects, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, today I rise with Senators INOUYE and SANDERS to introduce a very important bill—the Build, Update, Improve, Lift, and Design Health Centers Act of 2007. Also known as the BUILD Act, this legislation would provide building grants and loan guarantees to community health centers qualified under Section 330 of the Public Health Service Act. This widely-needed source of funding would be used for clinic renovation, replacement, modernization, and/or expansion in order to support community health centers in their on-going efforts to deliver high-quality health care in medically underserved areas.

Research from the National Association of Community Health Centers and the Robert Graham Center indicates that there are 56 million Americans that do not have access to a primary care provider, regardless of insurance. Another 45 million Americans lack health insurance or the funds to pay out-of-pocket for their basic health care needs. This means that more than 100 million Americans do not get the medical treatment they need each year.

Established over 40 years ago, community health centers are the backbone of America's health care safety net. Encompassing a network of over 1,000 centers, they provide much needed care to nearly 16 million people each year, including one in five children. 40 percent of health center patients are uninsured while Medicaid and CHIP cover approximately 36 percent. More than 70 percent of patients live in poverty. The average annual cost per patient is small, roughly $1.25 per day. However, the benefits of community health centers are great. People in areas served by these clinics are less likely to use emergency room services and have unmet health care needs. Without these centers, many people, particularly those in rural areas, would have nowhere to turn.

Clearly, our Nation's health centers bring health care to those in need, but these health centers are in need as well. Renovation and modernization are important to keep these buildings intact and up-to-date. According to the National Association of Community Health Centers, 30 percent of the buildings are more than 30 years old and 12 percent are more than 50 years old. Narrow operating margins, however, mean that most health centers do not have the resources necessary to pay for the capital improvements or new facilities needed to continue providing effective health care.

In recent years, the President and the Senate have supported dramatic increases in funding to create a number of new community health centers. However, there has been no corresponding commitment to address the desperate need for renovation and modernization of the older centers.

Currently, the Federal Government has no authority to provide grants or loan guarantees to address the building and capacity needs of existing community health centers. The BUILD Act provides such authority and, in doing so, supports the ability of these clinics to continue offering high quality, cost-effective care now and into the future.

I urge my colleagues to join me in support of this critical legislation. 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. 1990

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 ''Build, Update, Improve, Lift, and Design Health Centers Act of 2007'' or the ''BUILD Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Many health care experts believe that lack of access to basic health services is our Nation's single most pressing health care problem. There are 56,000,000 Americans that do not have access to a primary care provider, whether they have health insurance or not. In addition, more than 45,000,000 Americans lack health insurance and have difficulty accessing care due to the inability to pay for such care.

(2) Health centers, including community health centers, migrant health centers, health centers for the homeless, and public housing health centers, address the health care access problem by providing primary care services in thousands of rural and urban medically-underserved communities throughout the United States.

(3) Health centers provide basic health care services to 16,000,000 Americans each year, including nearly 9,500,000 minorities, 850,000 farmworkers, and 750,000 homeless individuals. One in five children from low-income families receives care through health centers.

(4) Studies show that health centers provide high-quality and cost-effective health care. The average yearly cost for a health center patient is approximately $1.25 per day.

(5) One of the most effective ways to address America's health care access problem is by dramatically expanding access to health centers, as both the Senate and the President have proposed.

(6) Many existing health centers operate in facilities that desperately need renovation or modernization. Thirty percent of health centers are located in buildings that are more than 30 years old, with 12 percent of such centers operating out of facilities that are more than 50 years old. In a survey of health centers in 11 States, 2/3 of those centers identified a need to improve, expand, or replace their current facility. An extrapolation based on this survey indicates there may be as much as $2,200,000,000 in unmet capital needs in our Nation's health centers.

(7) Dramatically increasing access to health centers requires building new facilities in communities that have access problems and lack a health center.

(8) Health centers often do not have the means to pay for capital improvements or new facilities. While most health centers raise some funds through private donations, it is difficult to raise sufficient amounts for capital needs without a middle-upper-class donor base similar to other nonprofit organizations like universities and hospitals.

(9) Health centers have a limited ability to support loan payments. Due to an increasing number of uninsured patients and the fact that many health care reimbursements are less than the cost of care, health centers rarely have more than minimal positive operating margins. Yet lenders are rarely willing to take risks on nonprofit organizations without these positive margins.

(10) While the Federal Government currently provides grants to health centers to assist with operational expenses used to provide care to a medically underserved population, there is no authority to provide grants to assist health centers to meet capital needs, such as construction of new facilities or modernization, expansion, or replacement of existing buildings.

(11) To assist health centers with their mission of providing health care to the medically underserved, the Federal Government should supplement local efforts to meet the capital needs of health centers.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

(a) HEALTH CARE FACILITY GRANTS AND LOAN GUARANTEES.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

''SEC. 330R. HEALTH CARE FACILITY GRANTS AND LOAN GUARANTEES.

''(a) ELIGIBLE HEALTH CENTER DEFINED.—In this section, the term 'eligible health center' means a health center that receives—

''(1) a grant, on or after the date of enactment of this section, under subsection

(c)(1)(A), (e)(1)(A), (e)(1)(B), (f), (g), (h), or (i) of section 330; or

''(2) a subgrant, on or after the date of enactment of this section, from a grant awarded under such provision of law.

''(b) GRANT PROGRAM AUTHORIZED.—

''(1) IN GENERAL.—The Secretary may award grants to eligible health centers to pay for the costs described in paragraph (2).

''(2) USE OF FUNDS.—An eligible health center that receives a grant under paragraph (1) may use the grant funds to—

''(A) modernize, expand, and replace existing facilities at such center; and

''(B) construct new facilities at such center.

''(3) LIMITATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Federal share of a grant awarded under paragraph (1) to expand an existing, or construct a new, facility shall not exceed 90 percent of the total cost of the project (including interest payments) proposed by the eligible health center.

''(B) EXCEPTION.—The Federal share maximum under subparagraph (A) shall not apply if—

''(i) the total cost of the project proposed by the eligible health center is less than $750,000; or

''(ii) the Secretary waives such maximum upon a showing of good cause.

''(c) FACILITY LOAN GUARANTEES.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—The Secretary shall establish a program under which the Secretary may guarantee not less than 90 percent of the principal and interest on the total amount of loans made to an eligible health center by non-Federal lenders in order to pay for the costs associated with a capital needs project described in subparagraph (B).

''(B) PROJECTS.—Capital needs projects under this subsection include—

''(i)(I) acquiring, leasing, modernizing, expanding, or replacing existing facilities;

''(II) constructing new facilities; or

''(III) purchasing or leasing equipment; or

''(ii) the costs of refinancing loans made for any of the projects described in clause (i).

''(C) NOT A FEDERAL SUBSIDY.—Any loan guarantee issued pursuant to this subsection shall not be deemed a Federal subsidy for any other purpose.

''(2) AUTHORITY FOR LOAN GUARANTEE PROGRAM.—With respect to the program established under paragraph (1), the Secretary shall assume such authority—

''(A) as the Secretary has under paragraphs (2) and (4) of section 330; and

''(B) under section 1620 as the Secretary determines is necessary and appropriate.

''(3) HEALTH CENTER PROJECT APPLICATIONS.—The Secretary shall require that all applicants for grants and loans under this section—

''(A) comply with the conditions set forth in section 1621, as in effect on the date of enactment of this section, with respect to activities authorized for assistance under subsections (b)(2) and (c)(1)(B) in the same manner that applicants for loans, loan guarantees, or grants for medical facilities projects under such section are required to comply with such conditions, unless such conditions are, by their terms, otherwise inapplicable; and

''(B)(i) give priority to contractors that employ substantial numbers of workers who reside in the area to be served by the health center; and

''(ii) include in the construction contract involved a requirement that the contractor will give priority in hiring new employees to residents of such area.

''(4) DEFINITIONS.—In this subsection:

''(A) FACILITIES.—The term 'facilities' means a building or buildings used by a health center, in whole or in part, to provide services permitted under section 330 and for such other purposes as are not specifically prohibited under such section as long as such use furthers the objectives of the health center.

''(B) NON-FEDERAL LENDER.—The term 'non-Federal lender' means any entity other than an agency or instrumentality of the Federal Government authorized by law to make loans, including a federally-insured bank, a lending institution authorized or licensed to make loans by the State in which it is located, a community development finance institution or community development entity (as designated by the Secretary of the Treasury), any such lender as the Secretary may designate, and a State or municipal bonding authority or such authority's designee.

''(d) EVALUATION.—Not later than 3 years after the date of enactment of this section, the Secretary shall prepare a report containing an evaluation of the programs authorized under this section. Such report shall include recommendations on how this section can be improved to better help health centers meet such centers' capital needs in order to expand access to health care in the United States.

''(e) AUTHORIZATION.—For the purpose of carrying out this section, the Secretary shall use not more than 5 percent of any funds appropriated pursuant to section 330(s) (relating to authorization of appropriations). In addition, funds appropriated for fiscal years 1997 and 1998 under the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts of 1997 and 1998, which were made available for loan guarantees for loans made by non-Federal lenders for construction, renovation, and modernization of medical facilities that are owned and operated by health centers and which have not been expended, shall be made available for loan guarantees under this section.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 330(r)(1) of the Public Health Service Act (42 U.S.C. 254b(r)(1)) (relating to authorization of appropriations) is amended by striking ''this section'' and inserting ''this section and section 330R''.

By Mr. BUNNING:

S. 1991. A bill to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of extending the Lewis and Clark National Historic Trail to include additional sites associated with the preparation and return phases of the expedition, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BUNNING. Mr. President, I would like to introduce a bill to authorize the National Park Service to conduct a comprehensive study to examine the extension of the Lewis and Clark National Historic Trail to include additional sites associated with the preparation or return phase of the expedition, commonly known as the ''Eastern Legacy.''

On May 14, 1804, Lewis and Clark, along with the Corps of Discovery departed from Camp Dubois, IL, to set out on voyage that would shed light on a landscape that had only been considered legend at the time. But this American tale of adventure, determination, and curiosity did not begin there. The 8,000-mile, 32-month expedition through the uncharted West and back to Washington, DC, started more than a year earlier in Virginia.

In 1803, Meriwether Lewis traveled through Maryland, Pennsylvania, Virginia, and West Virginia purchasing supplies and learning everything he could about botany, paleontology, navigation, and field medicine. The intrepid explorer and his growing crew then traveled down the Ohio River through Ohio and Indiana, meeting up with William Clark in Louisville, KY. Along this rich trail are many landmarks and sites that serve to honor and educate about this important event in American history.

Whether it is commemorating the American spirit or teaching about the early Republic, the Lewis and Clark National Historic Trail is an enduring resource for education. A sea-to-sea trail would make it the largest and longest trail in the National Park System, guiding visitors from across the Nation to all parks and interpretive centers.

This extension, a few years after the successful bicentennial celebration, will continue to raise the profile of the Lewis and Clark Trail and increase the potential for tourism revenue in States across the country. Including the eastern portion of the trail will garner greater Lewis and Clark interest east of the Mississippi and bring unity to this American expedition of East meeting West.

By Mr. DURBIN (for himself, Mr. HAGEL, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. DODD, Mrs. MURRAY, and Mr. JOHNSON):

S. 1998. A bill to reduce child marriage, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. 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. 1998

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 ''International Child Marriage Prevention and Protection Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Research shows that child marriage in developing nations is often associated with adverse economic and social consequences and is dangerous to the health, security, and well-being of girls and detrimental to the economic development of communities.

(2) The issue of child marriage is interwoven with broader social and cultural issues and is most effectively addressed as a development challenge through integrated, community-based approaches to promote and support girls' education and skill-building and healthcare, legal rights, and awareness for girls and women.

(3) As Charlotte Ponticelli, Senior Coordinator for International Women's Issues for the Department of State, stated on September 14, 2005: ''It is unconscionable that in

the 21st century girls as young as 7 or 8 can be sold as brides. There is no denying that extreme poverty is the driving factor that has enabled the practice to continue, even in countries where it has been outlawed . . . We need to be shining the spotlight on early marriage and its underlying causes . . . We must continue to do everything we can to ensure that girls have every opportunity to become agents of change and to expand the 'realm of what is possible' for their societies and the world at large.''

(4) The severity of the adverse impact of child marriage increases as the age at marriage and first childbirth decreases.

(5) A Department of State survey in 2005 found that child marriage was a concern in 64 out of 182 countries surveyed and that the practice is especially acute in sub-Saharan Africa and South Asia.

(6) According to the United Nations Children's Fund, in Ethiopia and in parts of West Africa marriage at the age of 7 or 8 is not uncommon.

(7) In developing countries, girls aged 10 to 14 who become pregnant are 5 times more likely to die in pregnancy or childbirth than women aged 20 to 24.

(8) Girls in sub-Saharan Africa are at much higher risk of suffering obstetric fistula.

(9) According to the Department of State: ''Pregnancy at an early age often leads to obstetric fistulae and permanent incontinence. In Ethiopia, treatment is available at only 1 hospital in Addis Ababa that performs over 1,000 fistula operations a year. It estimates that for every successful operation performed, 10 other young women need the treatment. The maternal mortality rate is extremely high due, in part, to food taboos for pregnant women, poverty, early marriage, and birth complications related to FGM [Female Genital Mutilation], especially infibulation.''.

(10) Adolescents are at greater risk of complications during childbirth that can lead to fistula because they have less access to health care and are subject to other significant risk factors related to the mother's physical immaturity.

(11) In nearly every case of obstetric fistula, the baby will be stillborn.

(12) The physical symptoms of obstetric fistula include incontinence or constant uncontrollable leaking of urine or feces, frequent bladder infections, infertility, and foul odor. The condition often leads to the desertion of fistula sufferers by husbands and family members and extreme social stigma.

(13) Although data on obstetric fistula are scarce, the World Health Organization (WHO) estimates that there are more than 2,000,000 women living with fistula and 50,000 to 100,000 new cases each year. These figures are based on the number of women who seek medical care. Many more suffer from the disabling condition.

(14) Adolescent girls are more susceptible than mature women to sexually transmitted infections, including HIV, due to both biological and social factors.

(15) Research in several countries with high rates of HIV infection indicates that married girls are at greater risk for HIV than their unmarried peers.

(16) Child marriage can have additional long-term consequences when combined with female genital cutting because the girls who have undergone that procedure can experience greater complications during pregnancy, leading to lasting health problems for themselves and their children.

(17) Child marriage is a leading barrier to girls' education in certain developing countries.

(18) A high incidence of child marriage undermines the efforts of developing countries and donor countries, including the United States, to promote economic and social development.

(19) The causes of child marriage include poverty, custom, and the desire to protect girls from violence or premarital sexual relations.

(20) Child marriage may also be a product of gender violence in which a man abducts and rapes a girl and then, sometimes through negotiations with traditional leaders, negotiates a settlement with the girl's parents, including marriage to the victim.

(21) The practice of child marriage is considered a ''harmful traditional practice'' by the United Nations Children's Fund.

(22) The Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages, adopted at the United Nations, December 10, 1962, requires the parties to the Convention to overcome all ''customs, ancient laws, and practices by ensuring complete freedom in the choice of a spouse, eliminating completely child marriages and the betrothal of young girls before the age of puberty''.

(23) The African Charter on the Rights and Welfare of the Child, which entered into force in 1990, provides that ''child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be eighteen years''.

(24) In Ethiopia, Girls' Activity Committees, community-based groups formed to support girls in school and advocate for girls' education, have conducted community awareness and informational campaigns, enlisted the assistance of traditional clan and religious leaders, discouraged families from practicing child marriage, encouraged girls' school attendance, and taken steps to reduce gender-based violence and create safer environments for girls en route to or from school and in the classroom.

(25) Recognizing the importance of the issue and the effects of child marriage, the Senior Coordinator for International Women's Issues of the Department of State initiated an effort in 2005 to collect and assess information on the incidence of child marriage and on the existence and effectiveness of initiatives funded by the United States to reduce the incidence of child marriage or the negative effects of child marriage and to measure the need for additional programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Agency.

(2) AGENCY.—Except as otherwise provided in this Act, the term ''Agency'' means the United States Agency for International Development.

(3) CHILD MARRIAGE.—The term ''child marriage'' means the legal or traditional marriage of a girl or boy who has not yet reached the minimum age for marriage stipulated in law in the country of which they are a citizen.

(4) DEVELOPING NATION.—The term ''developing nation'' means any nation eligible to receive assistance from the International Development Association or the International Bank for Reconstruction and Development.

(5) HIV.—The term ''HIV'' has the meaning given that term in section 3 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7602).

(6) HIV/AIDS.—The term ''HIV/AIDS'' has the meaning given that term in section 3 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7602).

(7) OBSTETRIC FISTULA.—The term ''obstetric fistula'' means a rupture or hole in tissues surrounding the vagina, bladder, or rectum that occurs during prolonged, obstructed childbirth.

(8) RELEVANT EXECUTIVE BRANCH AGENCIES.—The term ''relevant executive branch agencies'' means the Department of State, the Agency, the Department of Health and Human Services, and any other department or agency of the United States, including the Millennium Challenge Corporation, that is involved in implementing international health or development policies and programs of the United States.

(9) SECRETARY.—Except as otherwise provided in this Act, the term ''Secretary'' means the Secretary of State.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the untapped economic and educational potential of girls and women in many developing nations represent an enormous loss to those societies;

(2) expanding educational opportunities for girls and economic opportunities for women and reducing maternal and child mortality are critical to the achievement of internationally recognized health and development goals and of many global health and development objectives of the United States, including efforts to prevent HIV/AIDS;

(3) since child marriage is a leading barrier to the continuation of girl's education in many developing countries, it is important to integrate this issue into new and existing United States-funded efforts to promote education, strengthen legal rights and legal awareness, reduce gender-based violence, and promote skill-building and economic opportunities for girls and young women in regions with a high incidence of child marriage; and

(4) effective community-based efforts to reduce and move toward the elimination of child marriage as part of an integrated strategy to promote girls' education and empowerment will yield long-term dividends in the health and economic sectors in developing countries.

SEC. 5. DEVELOPMENT OF CHILD MARRIAGE PREVENTION STRATEGY.

(a) REQUIREMENTS FOR STRATEGY.—The Secretary shall develop a comprehensive strategy, taking into account the work of the relevant executive branch agencies, to reduce the incidences of child marriage around the world by further integrating this issue into existing and planned relevant United States development efforts.

(b) REPORT ON STRATEGY.—

(1) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on the strategy described in subsection (a), including a discussion of the elements described in paragraph (2).

(2) REPORT ELEMENTS.—The elements referred to in paragraph (1) are the following:

(A) A description of existing or potential approaches to prevent child marriage and address the vulnerabilities of populations who may be at risk of child marriage.

(B) A description of programs funded by the United States that address child marriage, and an assessment of the impact of such programs in the areas of health, education, and access to economic opportunities, including microfinance programs.

(C) A description of programs funded by the United States that are intended to prevent obstetric fistula.

(D) A description of programs funded by the United States that support the surgical treatment of obstetric fistula.

(E) A description of the impact of child marriage on the United States efforts to assist in achieving the goals set out in the

United Nations Millennium Declaration adopted by the United Nations General Assembly on September 8, 2000 (resolution 55/2), including specifically the impact on efforts to—

(i) eliminate gender disparity in primary and secondary education;

(ii) reduce child mortality;

(iii) improve maternal health; and

(iv) combat HIV/AIDS, tuberculosis, malaria, and other disease.

(F) A description of the impact of child marriage on achieving the purposes set out in section 602 of the Millennium Challenge Act of 2003 (22 U.S.C. 7701).

(G) A description of how the issue of child marriage can best be integrated into existing or planned United States programs to promote girls' education and skill-building, healthcare, legal rights and awareness, and other relevant programs in developing nations.

(c) REPORT ON CHILD MARRIAGE.—Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with other appropriate officials, shall submit to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on Foreign Affairs and Appropriations of the House of Representatives a report that describes—

(1) United States assistance programs that address child marriage;

(2) the impact of child marriage on maternal mortality and morbidity and on infant mortality in countries in which child marriage is prevalent;

(3) the projected effect of such programs on increasing the age of marriage, reducing maternal mortality and morbidity, reducing the incidence of obstetric fistula, reducing the incidence of domestic violence, increasing girls' access to and completion of primary and secondary education, reducing the incidence of early childbearing, and reducing HIV infection rates among married and unmarried adolescents;

(4) the scale and scope of the practice of child marriage in developing nations; and

(5) the status of efforts by the government of each developing nation with a high incidence of child marriage to eliminate such practices.

SEC. 6. AUTHORIZATION OF ASSISTANCE TO REDUCE INCIDENCES OF CHILDHOOD MARRIAGE AND OBSTETRIC FISTULA.

The President is authorized to provide assistance, including through international, nongovernmental, or faith-based organizations or through direct assistance to a recipient country, for programs to reduce the incidences of child marriage and promote the empowerment of girls and young woman. Such assistance may include—

(1) improving the access of girls and young women in developing nations to primary and secondary education and vocational training;

(2) supporting community education activities to educate parents, community leaders, and adolescents of the health risks associated with child marriage and the benefits for adolescents, especially girls, of access to education, health care, employment, microfinance, and savings programs;

(3) supporting community-based organizations in encouraging the prevention or delay of child marriage and its replacement with other non-harmful rites of passage;

(4) increasing access of women to economic opportunities, including microfinance and small enterprise development;

(5) supporting efforts to prevent gender-based violence;

(6) improving access of adolescents to adequate health care;

(7) supporting programs to promote educational and economic opportunities and access to health care for adolescents who are already married;

(8) supporting the surgical repair of fistula, including the creation or expansion of centers for the treatment of fistula in countries with high rates of fistula, and the care, support, and transportation of persons in need of such surgery; and

(9) supporting efforts to reduce incidences of fistula, including programs to increase access to skilled birth attendants, and to promote access to family planning where desired by local communities.

SEC. 7. RESEARCH AND DATA COLLECTION.

The Secretary shall work through the Agency and any other relevant agencies of the Department of State, and in conjunction with relevant executive branch agencies as part of their ongoing research and data collection activities, to—

(1) collect and make available data on the incidence of child marriage in countries that receive foreign or development assistance from the United States where the practice of child marriage is prevalent; and

(2) collect and make available data on the impact of the incidence of child marriage and the age at marriage on progress in meeting key development goals.

SEC. 8. HUMAN RIGHTS REPORT.

The Secretary shall include in the Department of State's Annual Country Reports on Human Rights Practices a section for each country where child marriage is prevalent, outlining the status of the practice of child marriage in that country.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS AND OTHER FUNDING.

There are authorized to be appropriated to carry out the provisions of this Act, and the amendments made by this Act, in addition to funds otherwise available for such purposes, amounts as follows:

(1) $15,000,000 for fiscal year 2008.

(2) $20,000,000 for fiscal year 2009.

(3) $25,000,000 for fiscal year 2010.

By Mr. LIEBERMAN (for himself, Ms. LANDRIEU, and Mr. COLEMAN):

S. 2001. A bill to amend the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, I rise today to introduce, together with my colleagues Senator MARY LANDRIEU and Senator NORM COLEMAN, the All Students Can Achieve Act. This bill represents a comprehensive bipartisan proposal to strengthen and improve No Child Left Behind, NCLB. We hope that many of the ideas contained in our proposal will be considered by the HELP Committee as it tackles NCLB reauthorization, and we look forward to working with the committee to that end.

Over 5 years ago, the President and Congress created a watershed moment in American education when we enacted the No Child Left Behind Act. We worked together across party lines and from both ends of Pennsylvania Avenue to address an ongoing crisis in our public schools, especially schools in minority and low-income communities, where students' reading and math achievement was far below that of peers in better off white communities.

Closing these student achievement gaps may be the most important civil rights movement of our time. In No Child Left Behind we made a national commitment to reject as unacceptable a system in which low-income minority students were reading at a grade level 4 years below that of their higher-income peers. We made a national commitment to bring an end to that intolerable gap and to ensure that each and every child, regardless of race, nationality or family income, could develop his or her talents to the fullest.

No Child Left Behind had the goal of bringing all minority and disadvantaged children, including children with disabilities, the attention and support they need to succeed, by holding schools and States accountable for delivering results to all of their students. With passage of NCLB, we made a good start. Progress has occurred but there is much more to be done to close the persistent gaps in student achievement.

No Child Left Behind, which Congress must now reauthorize, provides a foundation, but we now must take new, bold steps to fulfill the national commitments we first made 5 years ago. So that is why today we are presenting a significant reform proposal, which we are calling the All Students Can Achieve Act, and which we ask our colleagues and the President to give serious consideration as we work to reauthorize No Child Left Behind.

I want to touch briefly on some of the key features in this bill that build upon the reforms of the No Child Left Behind Act, and will attach a more detailed summary at the conclusion of my remarks.

Central to our strategy for closing the achievement gap is the pathway our bill creates for getting the very best teachers, teachers who are the best at bringing real learning and real growth in achievement to their students, into the schools and classrooms where they are most needed. No one does more important work in our society today than good teachers. We must attract, train and pay them as the critical professionals that they are. In our proposal, we ask States to move to a ''teacher effectiveness'' evaluation system. This system would evaluate teacher performance based on results in the classroom. To get to this point, States must develop comprehensive data systems that can track individual student growth and performance, and link student performance to individual teachers. We require and fund the data systems, and permit development of so-called growth models for compliance with Adequate Yearly Progress, AYP. Growth models give schools credit for boosting student performance over time, even where absolute test results are not at required levels. By linking student growth to individual teachers, States can measure teacher effectiveness by determining which teachers demonstrate learning gains in the classroom.

Our proposal allows those States that have developed meritorious teacher effectiveness systems to opt out of the

Federal Highly Qualified Teacher requirements, and to benefit from additional flexibilities in the use of Federal funds. Further, since we want to make sure that we can get the best teachers to the students most in need, our bill requires an equitable distribution of effective teachers across all schools and ultimately, after teacher professional development, if teachers are still not effective, we assign them away from our most needy schools. Our bill includes a provision to ensure that future collective bargaining agreements allow this to happen. In fact, because we recognize that there is nobody more important than a teacher, especially the most effective teachers, our bill puts the option of merit pay on the radar screen through a discretionary grant program to support new ideas for teacher professional development, tenure, assignment and compensation policies. We also seek to enrich the quality of education by, among other things, giving schools the option to bring in experienced professionals in math, science and critical foreign languages, as members of an Adjunct Teacher Corps.

We strengthen accountability by closing the existing loopholes that often prevent States and schools from truly measuring the actual achievement of minority students. Instead of allowing minority students to fall through the cracks of underachievement, this will force schools to take the steps needed to close the achievement gap for those students. Our bill gives parents the option of transferring their children in failing schools to other public schools, including schools across district lines if there is not an acceptable option within the original school district. In addition, our bill provides a two-track system for schools missing AYP. Schools missing AYP due to one or more subgroups, but less than 50 percent of the student population, would go through a more targeted attention program to address the problem areas.

Finally, we call for the development of voluntary American standards and assessments. Here we seek to address the need to promote rigorous standards and assessment of student learning to ensure that all students, no matter where they are schooled, are taught the skills they need to succeed in life. We call on the National Assessment Governing Board, with an expanded membership to include more teachers and business leaders, to develop these world class standards. States may choose to adopt these standards, thereby freeing up State resources. Alternatively, states could build their own assessments and standards based on the American standards, keep their own standards and tests, or team together in regional censorial to develop standards and assessments. The Department of Education would report to Congress on the variance between the rigor of state assessments and the American standards and assessments in cases where the voluntary standards are not used. It should be apparent that nothing in our bill would interfere with State flexibility to determine teaching format and substance.

In sum, No Child Left Behind is not just the name of an education law. It remains a solemn and urgent commitment that we made to America's children and parents. Because far too many children are still left behind and denied the opportunity to succeed in our society, we have renewed that commitment by offering this bill.

I want to thank my colleagues and cosponsors, Senators Mary Landrieu and Norm Coleman, and their staffs for their help in shaping this bill.

I ask unanimous consent that the text of the bill and a detailed summary be printed in the RECORD

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

S. 2001

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 ''All Students Can Achieve Act''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—GROWTH MODELS, DATA SYSTEMS, AND EFFECTIVE TEACHERS

SEC. 101. PURPOSE.

The purposes of this title are to—

(1) require States to measure teacher and principal effectiveness;

(2) develop data systems to measure effectiveness and to permit growth models;

(3) provide States with the opportunity to opt out of the highly qualified teacher requirements of section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319) once a State implements a highly effective teacher system; and

(4) provide enhanced funding flexibility for States and local educational agencies with highly effective teacher and principal systems described in section 1119A of such Act (as amended by this Act).

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out sections 104, 105, and 106, and the amendments made by these sections, there are authorized to be appropriated $400,000,000 for fiscal year 2008, $400,000,000 for fiscal year 2009, $500,000,000 for fiscal year 2010, $500,000,000 for fiscal year 2011, and $600,000,000 for fiscal year 2012. The Secretary shall allot to each State—

(a) an amount that bears the same relation to 50 percent of such funds as the number of students in kindergarten through grade 12 in the State bears to the number of all such students in all States; and

(b) an equal share of the remaining 50 percent of such funds.

SEC. 103. REQUIRING STATES TO MEASURE TEACHER EFFECTIVENESS AND PERMITTING GROWTH MODELS.

Section 2112(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6612(b)) is amended by adding at the end the following:

''(13) Not later than 4 years after the date of enactment of the All Students Can Achieve Act, a plan to implement a system of identifying highly effective teachers and principals as required under section 1119A.''.

SEC. 104. DATA SYSTEMS.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1120B the following:

''SEC. 1120C. DATA SYSTEMS AND REQUIREMENTS.

''(a) IN GENERAL.—A State receiving assistance under this part shall, not later than 4 years after the date of enactment of the All Students Can Achieve Act—

''(1) develop a longitudinal data system for the State or as part of a State consortium

that meets the requirements of this section; and

''(2) implement the data system after submitting to the Secretary an independently conducted audit certifying that the data system meets the requirements of this section.

''(b) DATA SYSTEM ELEMENTS.—The data system required by subsection (a) shall include the following:

''(1) The use of a unique statewide student identifier for each student enrolled in a school in the State that remains stable over time.

''(2) The ability to match the assessment records to each individual student, for each year the student is enrolled in a school in the State.

''(3) The collection and processing of data at the student level, including—

''(A) information on students who have not participated in the State academic assessments described in section 1111(b)(3) and the reasons those students did not participate;

''(B) student enrollment, demographic, including English language proficiency and native language, and academic and intervention program participation information;

''(C) information regarding student participation in supplemental educational services under section 1116(e), including—

''(i) the type of supplemental educational services provided;

''(ii) the dates of such services; and

''(iii) the identification of the providers of such services;

''(D) student transcript data; and

''(E) the existence of an individualized educational plan and other evaluations.

''(4) Data for each group described in section 1111(b)(2)(C)(v)), regarding—

''(A) the graduation rate, as defined in section 1111(b)(2)(C)(vi), and an on-time cohort graduation rate; and

''(B) each other academic indicator used by the State under section 1111(b)(2)(C)(vii) for public elementary school students.

''(5) A statewide audit system to ensure the validity and reliability of data in such system.

''(6) A unique statewide teacher identifier for each teacher employed in the State that—

''(A) remains stable over time and matches student records, including assessments, to the appropriate teacher; and

''(B) provides access to teacher data elements, including—

''(i) grade levels and subjects of teaching assignment;

''(ii) preparation program participation; and

''(iii) professional development program participation.

''(7) Ability to link information from the data system to public higher education data systems in the State, in order to gather information on postsecondary education enrollment, placement, persistence, and attainment.

''(c) DATA SYSTEM REQUIREMENTS.—A State implementing a data system required under this section shall—

''(1) develop and implement such system in a manner to ensure—

''(A) the privacy of student records in the data system, in accordance with the 'Family Educational Rights and Privacy Act of 1974' commonly known as Section 444 of the General Education Provisions Act;

''(B) the use of effective data architecture (including standard definitions and formatting) and warehousing, including the ability to link student records over time and across databases and to produce standardized or customized reports;

''(C) the interoperability among software interfaces used to input, access, and analyze the data of such system;

''(D) the interoperability with the system linking migrant student records required under part C;

''(E) the electronic portability of data and records in the system; and

''(2) provide training for the individuals using and operating such system.

''(d) PREEXISTING DATA SYSTEMS.—A State that has developed and implemented a longitudinal data system before the date of enactment of the All Students Can Achieve Act may utilize such system for purposes of this section, if the State submits to the Secretary an independently conducted audit described in subsection (a)(2).

''(e) COMPLIANCE.—Beginning on the date that is 4 years after the date of enactment of the All Students Can Achieve Act, if the Secretary finds, after notice and an opportunity for a hearing, that a State has failed to meet the requirements of this section, the Secretary may, at the discretion of the Secretary, suspend or limit the State's eligibility for assistance under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

''(f) REGIONAL CONSORTIA DATA SYSTEM GRANT PROGRAM.—

''(1) IN GENERAL.—From amounts authorized under paragraph (5), the Secretary shall award grants, in accordance with paragraph (3), to regional consortia of States for the activities described in paragraph (4).

''(2) APPLICATION.—A regional consortium desiring to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(3) AWARD BASIS AND ALLOTMENTS.—The Secretary shall reserve up to $50,000,000 of the funds authorized under section 102 to award grants, on a competitive basis, to regional consortia of States.

''(4) USE OF FUNDS.—A regional consortium receiving a grant under this subsection shall use grant funds to develop data systems for multi-State use that meet the requirements of this section.''.

SEC. 105. HIGHLY EFFECTIVE TEACHERS AND PRINCIPALS.

Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is amended by inserting after section 1119 the following:

''SEC. 1119A. HIGHLY EFFECTIVE TEACHERS AND PRINCIPALS.

''(a) IN GENERAL.—Not later than 2 years after completing the data system requirements in section 1120C and not later than 6 years after the date of enactment of the All Students Can Achieve Act, a State receiving assistance under this title shall implement a highly effective teacher and principal system by—

''(1) determining the requirements necessary to become a highly effective teacher in the State, which shall—

''(A) be based primarily on objective measures of student achievement; and

''(B) at a minimum, include that the teacher has demonstrated success in—

''(i) effectively conveying and explaining academic subject matter, as evidenced by the increased student academic achievement of the teacher's students; and

''(ii) employing strategies that—

''(I) are based on scientifically based research;

''(II) are specific to the academic subject matter being taught; and

''(III) focus on the identification of, and tailoring of academic instruction to, students' specific learning needs, particularly children with disabilities, students with limited English proficient, and students who are gifted and talented;

''(2) determining the requirements necessary to become a highly effective principal in the State, which shall be based primarily on increased student academic achievement of each group described in section 1111(b)(2)(C)(v) in the principal's school, as compared to the achievement growth of other schools with similar student populations to the principal's school, as determined by the State; and

''(3) implementing a system of identifying teachers and principals determined to be highly effective based on the requirements established by the State under paragraphs (1) and (2).

''(b) PEER REVIEW PROCESS.—The Secretary shall establish a peer review process to annually evaluate and rate each State's highly effective teacher and principal requirements, identification system, and resulting data.

''(c) RESERVATION OF FUNDS.—The Secretary shall reserve not more than 10 percent of the funds appropriated for this section or $60,000,000, whichever is less—

''(1) to conduct, commission, and disseminate research to determine the most effective methods of determining teacher effectiveness based on objective measures of growth in student achievement; and

''(2) to study the most effective uses of such data in improving student achievement.

''(d) WAIVER OF HIGHLY QUALIFIED TEACHER REQUIREMENTS.—

''(1) WAIVER APPLICATION.—A State establishing a highly effective teacher and principal system under this section may request a waiver of the highly qualified teacher requirements under subparagraphs (C) and (E) of section 1114(b)(1) and sections 1115(c)(1)(E) and 1119(a) for the State and the local educational agencies within the State, by submitting an application for a waiver to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) GRANTING OF WAIVER.—Notwithstanding subparagraphs (C) and (E) of section 1114(b)(1) and sections 1115(c)(1)(E) and 1119(a), the Secretary shall waive the highly qualified teacher requirements under such sections for a State and the local educational agencies within the State—

''(A) if the State demonstrates, in the application described in paragraph (1), that the State—

''(i) has implemented a highly effective teacher and principal system that meets the requirements of subsection (a) for not less than 1 year; and

''(ii) has baseline data regarding student achievement linked to teacher data for the schools in the State for not less than the 2 years preceding the year that the system is implemented; and

''(B) the peer review panel described in subsection (b) has determined the State's system to be meritorious for the preceding year.

''(e) FUNDING FLEXIBILITY.—The Secretary shall waive, upon the request of a State that has a highly effective teacher and principal system that has been determined to be meritorious by the peer review panel described in subsection (b), the limitations on transfers under section 6123(a) and 6123(b).

''(f) CONSEQUENCES FOR TEACHERS WHO ARE NOT HIGHLY EFFECTIVE.—

''(1) PROFESSIONAL DEVELOPMENT.—If a local educational agency receiving assistance under this part evaluates a teacher and finds that the teacher is not highly effective, the local educational agency shall provide the teacher with professional development and other support specifically designed to enable such teacher to produce student learning gains sufficient to become highly effective. Such professional development and support shall be provided during not less than the 4 years following the teacher's identification as not highly effective or until the teacher is evaluated as effective.

''(2) PLACEMENT OF TEACHERS WHO DO NOT BECOME HIGHLY EFFECTIVE.—A local educational agency receiving assistance under this part shall not employ in a school receiving assistance under this part a teacher who has been evaluated as not highly effective and, 4 years after such evaluation, is still evaluated as not highly effective, until such time as the teacher is evaluated as highly effective.

''(g) CONSEQUENCES FOR PRINCIPALS WHO ARE NOT HIGHLY EFFECTIVE.—

''(1) PROFESSIONAL DEVELOPMENT.—If a local educational agency receiving assistance under this part evaluates a principal and finds that the principal is not highly effective, the local educational agency shall provide the principal with professional development and other support specifically designed to enable such principal to produce student learning gains sufficient to become highly effective. Such professional development and support shall be provided during not less than 2 years following the identification as not highly effective or until the principal is evaluated as effective.

''(2) PLACEMENT OF PRINCIPALS WHO DO NOT BECOME HIGHLY EFFECTIVE.—A State or local educational agency receiving assistance under this part shall not employ in a school receiving assistance under this part a principal who has been evaluated as not highly effective and, 3 years after such evaluation, is still evaluated as not highly effective, until such time as the principal is evaluated as highly effective.

''(h) BARGAINING AGREEMENT EXCEPTION AND RESTRICTIONS ON NEW AGREEMENTS.—

''(1) IN GENERAL.—The Secretary shall not determine that a State or local educational agency has failed to comply with section 1119A if the reason for the agency's non-compliance is a contract or collective bargaining agreement that was entered into prior to the date of enactment of this Act.

''(2) RESTRICTIONS.—A local educational agency or State educational agency shall not enter into a new contract or collective bargaining agreement or renew or extend a contract or collective bargaining agreement that prevents the local educational agency or State educational agency from meeting the requirements of section 1119A after the date of enactment of this Act.''.

SEC. 106. PERMITTING GROWTH MODEL SYSTEMS.

Section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)) is amended by adding at the end the following:

''(11) USE OF GROWTH MODEL SYSTEMS.—

''(A) DEFINITION OF GROWTH MODEL SYSTEM.—In this paragraph, the term 'growth model system' means a system that—

''(i) calculates the academic growth of each individual student served by a school in the State over time;

''(ii) establishes growth targets for each such student, including students who already meet or exceed the proficient or advanced level of academic achievement on a State assessment required under section 1111(b)(3); and

''(iii) meets the minimum standards regarding data systems and data quality that the Secretary establishes pursuant to regulation, which standards shall include requirements that the system—

''(I) matches the assessment records of a student to the student for each year the student is enrolled in a public school in the State; and

''(II) measures student growth at the classroom and school levels.

''(B) USE OF GROWTH MODEL SYSTEMS.—Notwithstanding any other provision of law, for purposes of any provision that requires the calculation of a number or percentage of students who meet or exceed the proficient level of academic achievement on a State assessment under paragraph (3), a State authorized by the Secretary to use a growth model system under subparagraph (D) shall calculate such number or percentage by counting—

''(i) the students who meet or exceed the proficient level of academic achievement on the State assessment; and

''(ii) the students who are on a 3-year growth trajectory toward meeting or exceeding the proficient level.

''(C) APPLICATION.—A State desiring to develop, enhance, or implement a growth model system shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require. This application shall include a description of how students with disabilities and English language learners will be included in growth models.

''(D) AUTHORIZATION FOR A GROWTH MODEL SYSTEM.—The Secretary shall authorize a State that has submitted an application to use a growth model system for the purposes of calculating adequate yearly progress if the Secretary determines that—

''(i) the State has the capacity to track individual academic growth for not less than the 2 school years preceding the year of application; and

''(ii) the State has developed a plan for implementing a highly effective teacher and principal evaluation system.

''(E) RULE FOR EXISTING GROWTH MODEL PILOT PROGRAMS.—Notwithstanding this section, a State that, as of the day before the date of enactment of the All Students Can Achieve Act, has been approved by the Secretary to carry out a growth model as a pilot program, may continue to participate in the pilot program instead of the requirements of this section, at the Secretary's discretion.''.

SEC. 107. INNOVATIVE TEACHER AND SCHOOL INCENTIVE PROGRAMS.

Part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671 et seq.) is amended by adding at the end the following:

''Subpart 6—Innovative Teacher and School Incentive Programs

''SEC. 2371. INNOVATIVE TEACHER AND SCHOOL INCENTIVE PROGRAMS.

''(a) GRANT FUND FOR INNOVATIVE TEACHER PROGRAMS.—

''(1) GRANTS AUTHORIZED.—From amounts appropriated for this subsection, the Secretary shall award grants to eligible States to enable the eligible States—

''(A) to implement programs to improve professional development for public school educators such as—

''(i) establishing professional development committees, which are primarily composed of teachers, to evaluate the school's professional development activities and develop a plan for future activities that better meet the needs of the teachers and the students the teachers serve; and

''(ii) providing funding to local education agencies to increase the number of professional development release days; and

''(B) to reform teacher compensation, assignment, and tenure policies, including policies providing incentives to encourage the best teachers to teach high-need subjects or in high-need schools.

''(2) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that, in evaluating teachers, uses objective measures of student learning growth as the primary indicators of teacher performance.

''(3) APPLICATION.—An eligible State desiring a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

''(4) USE OF PEER REVIEW PANEL.—In awarding a grant under this subsection, the Secretary shall—

''(A) establish a peer review process to provide recommendations to the Secretary regarding awarding grants under this section; and

''(B) ensure that the participants in the peer review process include experts or researchers with knowledge regarding appropriate statistical methodology for assessing teacher effectiveness.

''(b) GRANTS FOR INNOVATIVE SCHOOL INCENTIVE PROGRAMS.—

''(1) GRANTS AUTHORIZED.—From amounts appropriated for this subsection, the Secretary shall award grants, on a competitive basis, to States to enable the States to implement school-based reward systems that recognize the teamwork (for example, among teachers, administrators, counselors, resource staff, media specialists, and other staff) necessary to improve eligible schools in low-income areas receiving assistance under title I.

''(2) APPLICATION.—A State desiring a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(3) USE OF FUNDS.—A State receiving a grant under this subsection shall use the grant to implement a school-based reward system described in paragraph (4) for eligible schools.

''(4) SCHOOL-BASED REWARD SYSTEM.—A school-based reward system funded under this subsection shall—

''(A) provide award amounts to eligible schools based on—

''(i) the degree of improvement of student performance;

''(ii) the number of students in the school; and

''(iii) the number of teachers, administrators, and staff serving the school;

''(B) give the eligible school the discretion to determine the appropriate uses described in subparagraph (C), with guidance and oversight provided by the State educational agency; and

''(C) require that the awards be used by the school for any of the following:

''(i) Non-recurring bonuses for teachers, administrators, and staff at the school.

''(ii) The addition of temporary personnel to continue the school's improvement.

''(iii) Providing a limited number of teachers with reduced teaching schedules to permit the teachers to act as mentors at the school or at other schools receiving assistance under title I.

''(5) DEFINITION OF ELIGIBLE SCHOOL.—In this subsection, the term 'eligible school' means an elementary or secondary school that—

''(A) is in the highest third of schools in the State in terms of the percentage of students eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act; and

''(B) shows significant improvement in student performance, as compared to similar schools.

''(c) REPORT.—The Secretary shall annually report to Congress on the grants awarded under subsections (a) and (b) and shall evaluate the effectiveness of such grants.

''(d) AUTHORIZATION.—For the purpose of carrying out this subsection, there are authorized to be appropriated $200,000,000 for fiscal year 2008 and for each of the 4 succeeding fiscal years.''

TITLE II—CLOSING THE ACHIEVEMENT GAP

SEC. 201. PURPOSE.

The purposes of this title are to—

(1) require the equitable distribution of effective teachers and non-Federal funding;

(2) increase authorizations for school-improvement funds; and

(3) provide incentives for States to maintain rigorous assessments by distributing these school-improvement funds according to the number of schools in need of improvement.

SEC. 202. EQUITABLE DISTRIBUTION OF HIGHLY EFFECTIVE TEACHERS AND NON-FEDERAL FUNDING.

(a) IN GENERAL.—Subpart 1 of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) is further amended by adding at the end the following:

''SEC. 1120D. EQUITABLE DISTRIBUTION OF HIGHLY EFFECTIVE OR HIGHLY QUALIFIED TEACHERS.

''(a) ANNUAL STATE EDUCATIONAL AGENCY REPORT.—

''(1) IN GENERAL.—Each State educational agency receiving assistance under this part shall annually prepare and submit to the Secretary, and make available to the public, a report on the equitable distribution of—

''(A) highly effective teachers and principals in the State; or

''(B) in the case of a State that has not yet implemented a highly effective teacher system under section 1119A or for which highly effective teacher evaluations have not been completed, highly qualified teachers in the State.

''(2) STATE REPORT CONTENT.—The report described in paragraph (1) shall include the following:

''(A) The percentage of public elementary school and secondary school teachers in the State who are not highly effective or highly qualified, as applicable.

''(B) The specific steps the State educational agency is taking to address any disproportionate assignment of teachers who are not highly effective or highly qualified in the schools and local educational agencies of the State.

''(C) A description of progress made regarding the State's capacity to implement a system for measuring individual teacher effectiveness.

''(D) A comparison between the elementary and secondary schools in the State in the highest quartile in terms of the percentage of students eligible for free and reduced-price lunches under the Richard B. Russell National School Lunch Act, and such schools in the lowest quartile, with respect to each of the following:

''(i) The annual teacher attrition rate.

''(ii) The percentage of classes taught by teachers who are not highly effective or highly qualified, as applicable.

''(iii) The percentage of such schools with principals who are not highly effective, if the State has implemented highly effective principal evaluations under section 1119A.

''(E) A comparison between the public schools in the State in the highest quartile in terms of the percentage of minority student enrollment, and such schools in the lowest quartile, with respect to each category described in clauses (i) through (iii) of subparagraph (D).

''(F) A compendium of statewide data and local educational reports described in subsection (b).

''(G) Such other information as the Secretary may reasonably require.

''(b) ANNUAL LOCAL EDUCATIONAL AGENCY REPORT.—

''(1) IN GENERAL.—Each local educational agency receiving assistance under this part shall annually prepare and submit to the State educational agency, and make available to the public, a report on the equitable distribution of—

''(A) highly effective teachers and principals in the elementary and secondary schools served by the local educational agency; or

''(B) in the case of a local educational agency in a State that is not implementing a highly effective teacher system under section 1119A or for which highly effective teacher evaluations have not been completed, highly qualified teachers in the elementary and secondary schools served by the local educational agency.

''(2) REPORT CONTENTS.—The report required under this subsection shall include—

''(A) The percentage of public elementary school and secondary school teachers employed by the local educational agency who are not highly effective or highly qualified, as applicable.

''(B) The specific steps the local educational agency is taking to address any disproportionate assignment of teachers who are not highly effective or highly qualified, as applicable.

''(C) A comparison between the elementary schools and secondary schools served by the local educational agency in the highest quartile in terms of the percentage of students eligible for free and reduced-price lunches under the Richard B. Russell National School Lunch Act, and such schools in the lowest quartile, with respect to each of the following:

''(i) The annual teacher attrition rate.

''(ii) The percentage of classes taught by teachers who are not highly effective or highly qualified, as applicable.

''(iii) The percentage of public schools with principals who are not highly effective, in States that have implemented highly effective principal evaluations under section 1119A.

''(D) A comparison between the public schools served by the local educational agency in the highest quartile in terms of minority student enrollment, and such schools in the lowest quartile, with respect to each category described in clauses (i) through (iii) of subparagraph (C).

''(E) Specific, measurable, and quantifiable annual goals for achieving equity in the distribution of teachers who are highly effective or highly qualified, as applicable.

''(F) Such other information as the Secretary may reasonably require.

''(c) LOCAL EDUCATIONAL AGENCY PLANS.—Not later than 180 days after the date of enactment of the All Students Can Achieve Act, each local educational agency receiving assistance under this part shall submit a plan to the State educational agency that describes how the local educational agency will achieve equitable assignment of highly effective teachers (or, in the case of a local educational agency in a State that has not yet implemented a highly effective teacher system, highly qualified teachers) to high-poverty and high-minority schools.

''SEC. 1120E. EQUITABLE DISTRIBUTION OF NON-FEDERAL FUNDING.

''(a) REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of the All Students Can Achieve Act, each State educational agency receiving assistance under this title shall provide evidence to the Secretary that the non-Federal funds used by the State for public elementary and secondary education, including those funds used for actual, and not estimated or averaged, teacher salaries, based upon classroom hours, for each fiscal year, are distributed equitably across the schools within each local educational agency.

''(2) INFORMATION ON SCHOOL REPORT CARDS.—If, for a fiscal year, a school receiving assistance under this part receives significantly less than the average non-Federal school funding provided to schools in the local educational agency for such year, the local educational agency shall include in the school report card required under section 1111(h)(2)(B)(ii) for such school the amount by which the school's non-Federal school funding is significantly below the average non-Federal school funding for schools served by the local educational agency.

''(3) EVALUATION.—2 years after the date of enactment of the All Students Can Achieve Act, and every year thereafter, the Inspector General of the Department shall—

''(A) evaluate 5 State educational agencies that receive assistance under this part and 10 local educational agencies that receive assistance under this part, to determine such agencies' progress in meeting the requirements of this section; and

''(B) prepare and distribute a report regarding the findings of the evaluation to the Secretary and to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives.

''(b) REGULATIONS AND GUIDELINES.—

''(1) STATE EDUCATIONAL AGENCY REGULATIONS.—Not later than 180 days after the date of enactment of the All Students Can Achieve Act, the Secretary shall promulgate regulations for State educational agencies regarding how to review the State educational agency's rules and guidelines and work with local educational agencies to establish plans and timelines for providing equitable non-Federal funding to all schools in the State who receive assistance under this title.

''(2) GUIDELINES FOR LOCAL EDUCATIONAL AGENCIES.—Not later than 1 year after the issuance of the regulations described in paragraph (1), each State educational agency receiving assistance under this part shall—

''(A) develop guidelines for local educational agencies regarding the local educational agencies' responsibilities under this section; and

''(B) distribute such guidelines to the local educational agencies and make such guidelines publicly available.

''(3) LOCAL EDUCATIONAL AGENCY PLANS.—Not later than 180 days after the receipt of the State educational agency's guidelines described in paragraph (2), each local educational agency in the State that receives assistance under this part shall develop and submit to the State educational agency a plan that—

''(A) describes how the local educational agency will ensure the equitable distribution of non-Federal funds;

''(B) includes a timeline that provides for the implementation of the plan by not later than 3 years after the local educational agency has received the guidelines under paragraph (3); and

''(C) shall be made publicly available.

''(c) DEFINITION OF NON-FEDERAL FUNDS.—In this section, the term 'non-Federal funds' means the amount of State and local funds provided to a school (including those State and local funds used for teacher salaries but not including any Federal funding).

''SEC. 1120F. MAKE WHOLE PROVISIONS.

''If a State has not achieved an equitable distribution, within local educational agencies, of effective teachers and non-Federal funds 3 years after the date of enactment of the All Students Can Achieve Act, the Secretary may withhold a portion of the State's funds under the All Students Can Achieve Act.''.

(b) REPORT CARD.—Section 1111(h)(2)(B)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(2)(B)(ii)) is amended—

(1) in subclause (I), by striking ''and'' after the semicolon;

(2) in subclause (II), by striking he period and inserting a semicolon and ''and ''; and

(3) by inserting after clause (II), as so amended, the following:

''(III) the information required under section 1120E(a)(2), if required for such school; and''.

SEC. 203. STRENGTHEN AND FOCUS STATE CAPACITY FOR SCHOOL IMPROVEMENT EFFORTS.

(a) SCHOOL IMPROVEMENT GRANT AUTHORIZATION OF APPROPRIATIONS.—Section 1002(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6302(i)) is amended by striking ''appropriated $500,000,000'' and all that follows through the period and inserting ''appropriated—

''(1) $600,000,000 for fiscal year 2008;

''(2) $700,000,000 for fiscal year 2009;

''(3) $800,000,000 for fiscal year 2010;

''(4) $900,000,000 for fiscal year 2011; and

''(5) $1,000,000,000 for fiscal year 2012.''.

(b) STATE ADMINISTRATION.—Section 1003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303) is amended—

(1) in subsection (g)(2), by striking ''the funds received by the States, the Bureau of Indian Affairs, and the outlying areas, respectively, for the fiscal year under parts A, C, and D of this title.'' and inserting ''the number of schools in the States, the Department of Interior, and the outlying areas, respectively, that are not making adequate yearly progress for the most recent school year for which information is available.''; and

(2) by adding at the end the following:

''(h) ADDITIONAL AMOUNTS FOR ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (g), in addition to the amounts reserved under subsection (a) but not allocated under subsection (b)(1) and the amounts of a grant award described in subsection (g)(7), a State may use an additional percentage of the amounts reserved under subsection (a) and the grant award under subsection (g), not to exceed 15 percent of the sum of such reserved amounts and grant award, if the State matches the dollar amount of such additional amount with an equal amount of State funds.

''(2) USE OF FUNDS.—A State that elects to use an additional percentage described in paragraph (1) shall use such funds, and the required matching State funds, to build more capacity at the State level to diagnose, intervene in, and assist schools—

''(A) by supporting State personnel in carrying out the responsibilities under this section; or

''(B) by entering into contracts with nonprofit entities with a record of assisting in the improvement of persistently low-performing schools.''.

(c) EXTENDING THE FOUR PERCENT SCHOOL IMPROVEMENT STATE RESERVATIONS.—Section 1003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6303) is amended in subsection (a)—

(1) by striking ''2 percent'' and inserting ''4 percent''; and

(2) by striking ''for fiscal years 2002'' and all that follows through ''2007,'' and inserting ''for each fiscal year''.

TITLE III—ACHIEVING HIGH STANDARDS

SEC. 301. PURPOSES.

The purposes of this title are to—

(1) enhance the National Assessment Governing Board and the Board's responsibilities to develop 21st century performance-based American standards and assessments, including world-class alternate assessments for students with disabilities and English-language learners, with incentives for States to adopt voluntarily the American standards and assessments;

(2) align State curricula with college and workplace needs through State P–16 commissions covering pre-kindergarten through college in the subjects of reading or language arts, history, science, technology, engineering, and mathematics; and

(3) require the Department of Education to report annually on the quality and rigor of the model American and the State standards and assessments.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title and the amendments made by this title, in addition to other amounts already authorized, there are authorized to be appropriated $250,000,000 for fiscal year 2008 and for each of the 4 succeeding fiscal years.

PART A—AMERICAN STANDARDS AND ASSESSMENTS

SEC. 311. AMERICAN STANDARDS AND ASSESSMENTS.

(a) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 302 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (G), by striking ''Three classroom teachers representing'' and inserting ''Six classroom teachers with 2 each representing'';

(B) in subparagraph (H), by striking ''One representative of business or industry'' and inserting ''Three representatives of business or industry''; and

(C) by adding at the end the following: ''(O) Two members from higher education.'';

(2) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (I), by striking ''and'' after the semicolon;

(ii) in subparagraph (J), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(K)(i) create American content and performance standards and assessments in language arts or reading, mathematics, and science for grades 3 through 12;

''(ii) create high-quality alternative assessments for students with disabilities and English-language learners for use by States;

''(iii) provide web-based mechanisms for States to receive timely results from these assessments and alternate assessments;

''(iv) extrapolate such standards and assessments based on the National Assessment of Educational Progress frameworks; and

''(v) ensure that such standards and assessments are aligned with college and workplace readiness skills.''; and

(B) by adding at the end the following:

''(7) REPORT ON AMERICAN STANDARDS.—The Assessment Board shall issue a report to the Secretary containing the model standards and describe the assessments specified in paragraph (1)(K).'';

(3) in subsection (f)—

(A) in paragraph (2)(B), by striking ''not more than six''; and

(B) by adding at the end the following:

''(3) DETAILEES.—Any Federal Government employee may be detailed to the Governing Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of such employee's regular employment without interruption.''.

(b) AMENDMENT TO STATE PLANS.—Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended—

(1) in subsection (c)(2), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''; and

(2) by adding at the end the following:

''(n) USE BY STATES OF MODEL AMERICAN STANDARDS AND ASSESSMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act, upon issuance of the report under section 302(e)(7) of the National Assessment of Educational Progress Authorization Act, each State desiring to receive funding under this part shall—

''(A) adopt the model American standards and assessments specified in that report for use in carrying out this section;

''(B) modify the State's existing academic standards and assessments to align with those model American standards and assessments; or

''(C) continue using the State's existing academic standards and academic assessments or those of a regional consortium.

''(2) SECRETARY TO EVALUATE STANDARDS AND ASSESSMENTS OF STATES NOT ADOPTING MODEL AMERICAN STANDARDS AND ASSESSMENTS.—The Secretary shall—

''(A) analyze the academic standards and assessments of States that do not adopt the model American standards and assessments; and

''(B) compare such academic standards and assessments to the model American standards and assessments, using a common scale.

''(3) ANNUAL REPORT.—The Secretary shall annually report to Congress on any variance in quality and rigor between the model American standards and assessments adopted by the Assessment Board and the standards and assessments used by the States. Until development and implementation of the model American standards and assessments adopted by the Assessment Board, the Secretary shall report annually to the public on differences between State assessment results and results from the National Assessment of Educational Progress.''.

(c) AMENDMENT TO LOCAL PLANS.—Section 1112(b)(1)(F) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1)(F)) is amended by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''.

(d) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 303 of the National Assessment of Educational Progress Authorization Act (20 U.S.C. 9621) is amended—

(1) in subsection (b)(1), by striking ''reading, mathematics'' and inserting ''reading, mathematics, science'';

(2) in subsection (b)(2)(B), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(3) in subsection (b)(2)(C), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(4) in subsection (b)(2)(E), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(5) in subsection (b)(3)(A)(i), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science'';

(6) in subsection (b)(3)(A)(ii), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''; and

(7) in subsection (b)(3)(C)(ii), by striking ''reading and mathematics'' and inserting ''reading, mathematics, and science''.

PART B—P–16 EDUCATION STEWARDSHIP SYSTEMS

SEC. 321. P–16 EDUCATION STEWARDSHIP COMMISSION.

(a) P–16 EDUCATION STEWARDSHIP COMMISSION.—

(1) IN GENERAL.—Each State that receives assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) shall establish a P–16 education stewardship commission that has the policymaking ability to meet the requirements of this section.

(2) EXISTING COMMISSION.—The State may designate an existing coordinating body or commission as the State P–16 education stewardship commission for purposes of this title, if the body or commission meets, or is

amended to meet, the basic requirements of this section.

(b) MEMBERSHIP.—

(1) COMPOSITION.—Each P–16 education stewardship commission shall be composed of the Governor of the State, or the designee of the Governor, and the stakeholders of the statewide education community, as determined by the Governor or the designee of the Governor, such as—

(A) the chief State official responsible for administering prekindergarten through grade 12 education in the State;

(B) the chief State official of the entity primarily responsible for the supervision of institutions of higher education in the State;

(C) bipartisan representation from the State legislative committee with jurisdiction over prekindergarten through grade 12 education and higher education;

(D) representatives of 2- and 4-year institutions of higher education in the State;

(E) public elementary and secondary school teachers employed in the State;

(F) representatives of the business community; and

(G) at the discretion of the Governor, or the designee of the Governor, representatives from pre-kindergarten through grade 12 and higher education governing boards and other organizations.

(2) CHAIRPERSON; MEETINGS.—The Governor of the State, or the designee of the Governor, shall serve as chairperson of the P–16 education stewardship commission and shall convene regular meetings of the commission.

(c) DUTIES OF THE COMMISSION.—

(1) MEETINGS.—Each State P–16 education stewardship commission shall convene regular meetings.

(2) COMMISSION RECOMMENDATIONS.—Not later than 18 months after a State receives funds under section 303, and annually thereafter, the State P–16 education stewardship commission informed by the higher education institutions in the State shall—

(A) develop recommendations to better align the content knowledge requirements for secondary school graduates with the knowledge and skills needed to succeed in postsecondary education and the workforce in the subjects of reading or language arts, history, mathematics, science, technology, and engineering, and, at the discretion of the Commission, additional academic content areas;

(B) develop recommendations regarding the prerequisite skills and knowledge, patterns of coursework, and other academic factors including—

(i) the prerequisite skills and knowledge expected of incoming freshmen at institutions of higher education to successfully engage in and complete postsecondary-level general education coursework without the prior need to enroll in developmental coursework; and

(ii) patterns of coursework and other academic factors that demonstrate the highest correlation with success in completing postsecondary-level general education coursework and degree or certification programs, particularly with respect to science, technology, engineering, and mathematics; and

(C) develop recommendations and enact policies to increase the success rate of students in the students' transition from secondary school to postsecondary education, including policies to increase success rates for—

(i) students of economic disadvantage;

(ii) students of racial and ethnic minorities;

(iii) students with disabilities; and

(iv) students with limited English proficiency.

SEC. 322. P–16 EDUCATION STATE PLANS.

(a) IN GENERAL.—Each State receiving assistance under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) shall develop a plan that includes, at a minimum, the following:

(1) A demonstration that the State will work with the State P–16 education stewardship commission and others, as necessary, to examine the relationship among the content of postsecondary education admission and placement exams, the prerequisite skills and knowledge required to successfully take postsecondary-level general education coursework, the pre-kindergarten through grade 12 courses and academic factors associated with academic success at the postsecondary level, particularly with respect to science, technology, engineering, and mathematics, and existing academic standards and aligned academic assessments.

(2) A description of how the State will, using the information from the State P–16 education stewardship commission, increase the percentage of students taking courses that have the highest correlation of academic success at the postsecondary level, for each of the following groups of students:

(A) Economically disadvantaged students.

(B) Students from each major racial and ethnic group within the State.

(C) Students with disabilities.

(D) Students with limited English proficiency.

(3) A description of how the State will distribute the information in the P–16 education stewardship commission's report to the public in the State, including public secondary schools, local educational agencies, school counselors, P–16 educators, institutions of higher education, students, and parents.

(4) An assurance that the State will continue to pursue effective P–16 education alignment strategies.

(b) SUBMISSION.—Each State shall submit the State plan described in subsection (a) to the Secretary not later than 1 year of the date of the enactment of this Act.

SEC. 323. P–16 EDUCATION STEWARDSHIP SYSTEM GRANTS.

(a) PROGRAM AUTHORIZED.—From amounts appropriated under this section, the Secretary shall award grants, from allotments under subsection (b), to States to enable the States—

(1) to establish P–16 education stewardship commissions in accordance with section 321; and

(2) to carry out the activities and programs described in the State plan submitted under section 322.

(b) ALLOTMENTS.—The Secretary shall allot the amounts available for grants under this section equally among the States that have submitted plans described in section 322. Each such plan shall include a demonstration that the State, not later than 5 months after receiving grant funds under this section, will establish a P–16 education stewardship commission described in section 321.

SEC. 324. REPORTS.

(a) IN GENERAL.—Not later than 18 months after a State receives funds under this section, and annually thereafter, the State P–16 education stewardship commission shall prepare and submit to the Governor, and make easily accessible and available to the public, a clear and concise report that shall include the recommendations described in section 321(c)(2).

(b) DISTRIBUTION TO THE PUBLIC.—Not later than 60 days after the submission of a report under subsection (a), each State P–16 education stewardship commission shall publish and widely distribute the information in the report in various concise and understandable formats to targeted audiences such as—

(1) all public secondary schools and local educational agencies;

(2) school counselors;

(3) P–16 educators;

(4) institutions of higher education; and

(5) students and parents, especially students and parents of students listed in subparagraphs (A) through (D) of section 322(a)(2) and those entering grade 9 in the next academic year, to assist students and parents in making informed and strategic course enrollment decisions.

TITLE IV—STRENGTHENING ACCOUNTABILITY

SEC. 401. PURPOSES.

The purposes of this title are—

(1) to divide the accountability structure for schools under the Elementary and Secondary Education Act of 1965 to provide—

(A) comprehensive intervention for schools that do not make adequate yearly progress because groups comprising collectively 50 percent or more of the students in the school have not achieved the State objectives under section 1111(b)(2)(G) of such Act; and

(B) focused intervention for schools that do not make adequate yearly progress because groups comprising collectively less than 50 percent of the students in the school have not achieved such objectives;

(2) to strengthen the program of providing supplemental educational services;

(3) to count all children and increase rigor by ensuring that the State calculations of adequate yearly progress have limits on student thresholds and also on statistical confidence intervals that do not exceed 95 percent confidence;

(4) to add science to the subjects included in the adequate yearly progress calculations in the academic assessments under section 1111(b)(3) of such Act;

(5) to support research and development for mathematics and science partnerships;

(6) to amend the provisions regarding the accountability for students with disabilities and English-language learners;

(7) to screen children entering schools identified as in need of comprehensive intervention under section 1116(b)(1) of such Act; and

(8) to develop the Adjunct Teacher Corps to meet the country's needs for teachers in critical foreign languages and science, technology, engineering, and mathematics.

SEC. 402. AUTHORIZATIONS.

For the purpose of carrying out this title and the amendments made by this title, there are authorized to be appropriated $250,000,000 for fiscal year 2008 and for each of the 4 succeeding fiscal years.

SEC. 403. SCHOOL INTERVENTION PLAN DEVELOPMENT.

Part A of title I of the Elementary and Secondary Education Act of 1965 is further amended by inserting before section 1116 the following:

"SEC. 1115A. SCHOOL INTERVENTION PLAN DEVELOPMENT.

''(a) IN GENERAL.—A school that does not make adequate yearly progress but has not been so identified for the immediate preceding year shall, not later than the end of the first year following such identification—

''(1) develop, in conjunction with the local educational agency and in consultation with parents, teachers, administrators, students, and school-intervention specialists from the local educational agency or the State educational agency, a school-intervention plan;

''(2) obtain approval of the plan from the local educational agency and certification from the superintendent that the plan meets the requirements of this subparagraph and is reasonably designed to ensure that the school will meet adequate yearly progress targets for the following year; and

''(3) after approval, make the school-intervention plan publicly available.

''(b) CONTENTS OF PLAN.—A school plan under this section shall—

''(1) analyze and address systemic causes for the school's inability to make adequate yearly progress;

''(2) identify the specific reasons why the school did not make adequate yearly progress;

''(3) articulate a plan to improve instruction and achievement that addresses how the school will—

''(A) implement curriculum and benchmark assessments that are aligned with the State academic content standards and student academic achievement standards, if collectively more than 50 percent of students are contained within groups that did not meet adequate yearly progress;

''(B) expand instructional time for students who have not met the proficient level or are not making sufficient progress toward reaching such level on the State academic assessments;

''(C) ensure that first-year teachers are not disproportionately assigned to students described in subparagraph (B);

''(D) ensure that all teachers in the school receive assistance and support in implementing the curriculum, evidence-based intervention models, benchmark assessments, and additional instructional time;

''(E) if the subgroup of limited English proficient students does not make adequate yearly progress, articulate how the school will work with the local educational agency to redeploy, as permitted, funds made available to the local educational agency under title III;

''(F) if the subgroup of students with disabilities did not make adequate yearly progress, articulate how the school will work with the local educational agency to redeploy, as permitted, funds made available to the local educational agency under the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.);

''(G) include data on the school, relevant to the factors identified in the plan, from the local educational agency's report under section 1120D; and

''(H) identify specific actions that the local educational agency will take to make supplemental educational services and public school transfer available.''.

SEC. 404. COMPREHENSIVE AND FOCUSED INTERVENTION.

Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316) is amended)—

(1) in subsection (a)(1)(B)—

(A) by striking ''subject to school improvement'' and inserting in lieu thereof ''subject to comprehensive intervention or focused intervention''; and

(B) by striking ''for school improvement'' and inserting in lieu thereof ''for comprehensive intervention or focused intervention'';

(2) by striking subsection (b) and inserting the following:

''(b) SCHOOL INTERVENTION.—

''(1) COMPREHENSIVE INTERVENTIONS.—

''(A) IDENTIFICATION.—

''(i) IN GENERAL.—A local educational agency shall identify as in need of comprehensive intervention, any elementary school or secondary school served under this part that does not make, for 2 or more consecutive years, adequate yearly progress as defined in the State's plan under section 1111(b)(2) because—

''(I) the group of all students at the school did not meet the objectives set by the State under section 1111(b)(2)(G); or

''(II) 1 or more groups of students specified in section 1111(b)(2)(C)(v) that collectively represents 50 percent or more of the students in the school's enrollment did not meet such objectives.

''(ii) TRANSFER TO FOCUSED INTERVENTION.—In the case of a school that has been identified as in need of comprehensive intervention under clause (i), the school shall be transferred to the year under the focused intervention timeline, as defined in paragraph (2)(A)(i), where the school would have fallen if the school had never needed comprehensive intervention, if the school—

''(I) makes adequate yearly progress for 2 consecutive years for groups that collectively contain more than 50 percent of the students; and

''(II) does not make adequate yearly progress for one or more subgroups for 2 or more consecutive years for the same subgroups.

''(iii) EXITING COMPREHENSIVE INTERVENTION.—In the case of a school that has been identified as in need of comprehensive intervention under clause (i), the school shall continue to be identified as in need of comprehensive intervention and subject to the requirements of this section until—

''(I) the school makes adequate yearly progress for 2 consecutive years for groups that collectively contain more than 50 percent of the students; or

''(II) the school year following the implementation of a comprehensive restructuring plan under subparagraph (E).

''(B) HIRING, TRANSFERRING, AND PROFESSIONAL DEVELOPMENT REQUIREMENTS FOR IDENTIFIED SCHOOLS.—

''(i) IN GENERAL.—Subject to clause (iii), a local educational agency or State educational agency receiving assistance under this part shall—

''(I) permit a school identified as being in need of comprehensive intervention under subparagraph (A) to deny transfer requests from teachers;

''(II) provide such school with priority in the hiring timeline for the local educational agency or State educational agency; and

''(III) in the case of a school that has been identified as being in need of comprehensive intervention for 2 or more years, allow the school to add additional professional development hours for teachers if the professional development is included as part of the approved intervention plan defined in this subsection for the school.

''(ii) DETERMINATION BY SECRETARY.—Each local educational agency or State educational agency receiving assistance under this part shall demonstrate to the Secretary that the agency can meet the requirements of clause (i) by not later than 3 years after the date of enactment of this Act. If the Secretary determines that the local educational agency or State educational agency has failed to meet this requirement, the Secretary may withhold a portion of funds to the State educational agency under this title.

''(iii) BARGAINING AGREEMENT EXCEPTION AND RESTRICTIONS ON NEW AGREEMENTS.—

''(I) IN GENERAL.—The Secretary shall not determine that a State educational agency has failed to comply with clause (i) if the reason for the agency's non-compliance is a contract or collective bargaining agreement that was entered into prior to the date of enactment of this Act.

''(II) RESTRICTIONS.—A local educational agency or State educational agency shall not enter into a new contract or collective bargaining agreement, or renew or extend a contract or collective bargaining agreement, that prevents the local educational agency or State educational agency from meeting the requirements of clause (i) after the date of enactment of the All Students Can Achieve Act.

''(C) PLAN IMPLEMENTATION IN YEARS 1, 2, 3, AND 4.—

''(i) IN GENERAL.—In the case of a school that has been identified as in need of comprehensive intervention for less than 5 consecutive years-

''(I) the school shall implement the approved school intervention plan developed under section 1115A; and

''(II) not later than the beginning of the first school year of intervention plan implementation, and for each of the succeeding years if the school remains in need of comprehensive or focused intervention, the local educational agency shall arrange for the provision of supplemental educational services; and

''(III) by not later than 6 weeks before the start of the first school year of intervention plan implementation, the local educational agency serving the school shall notify the parents of the students attending the school of the parents' right to transfer their child to another public school that is not identified as in need of comprehensive intervention including the out of district transfer program in section 503.

''(ii) PLAN AND PROGRESS REVIEW.—In the case of a school that is required to carry out a comprehensive school improvement plan under this subparagraph, the local educational agency and the State educational agency shall annually review the school's implementation of the plan and progress for each year that the school is designated as in need of comprehensive intervention.

''(D) RESTRUCTURING PLAN DEVELOPMENT IN YEAR 4.—

''(i) IN GENERAL.—In the case of a school identified as in need of comprehensive intervention for 4 consecutive years, the local educational agency, in consultation with the school and in addition to plan implementation as defined in subparagraph (C), shall, by not later than the end of the year—

''(I) develop a comprehensive restructuring plan, in consultation with school intervention specialists, where available, from the State educational agency, parent and community representatives, and local government officials;

''(II) obtain—

''(aa) approval of the plan from a peer review panel selected by the chief State school officer; and

''(bb) certification by the chief State school officer that the plan meets the requirements of this subparagraph and is designed to ensure that the school will make adequate yearly progress in the succeeding years; and

''(III) make the comprehensive restructuring plan public.

''(ii) RESTRUCTURING OPTIONS.—A comprehensive restructuring plan for a school subject to this subparagraph shall include details sufficient to carry out one of the following as consistent with State law:

''(I) Closing and reopening the school as a charter school even if the addition of such school would exceed the State's limit on the number of charter schools that may operate in the State, city, county, or region.

''(II) Closing and reopening the school under the management of a private or nonprofit organization with a proven record of improving schools.

''(III) Closing and reopening the school under the direct administration of the State educational agency or the chief executive officer of a State or local government entity, such as a governor or mayor.

''(IV) Reassigning the majority of the staff at the school, and ensuring that in the subsequent year the staff serving the school does not have a greater percentage of teachers who are not highly effective than the average percentage of such teachers in the schools served by the local educational agency.

''(iii) MULTIPLE RESTRUCTURING EXCEPTION.—

''(I) EXCEPTION.—Notwithstanding subparagraph (A) or clause (i), if 10 percent or more of the schools served by a local educational agency are required to develop a comprehensive restructuring plan, the local educational agency, with the approval and cooperation of the State educational agency, may carry out the requirements of this subparagraph for a limited number of the lowest performing of such schools, as described in subclause (II).

''(II) LIMITED NUMBER OF SCHOOLS.—The number of schools described in this subclause shall be not less than the greater of—

''(aa) 10 percent of the number of the schools served by the local educational agency; or

''(bb) 1.

''(III) RULE FOR NONSELECTED SCHOOLS.—A school identified for comprehensive restructuring that is not one of the limited number of lowest performing schools under this clause shall be subject to comprehensive restructuring in subsequent years and comparable expenditures under subparagraph (F) unless the school exits comprehensive intervention.

''(E) YEAR 5—COMPREHENSIVE RESTRUCTURING PLAN IMPLEMENTATION.—A school that has been identified as in need of comprehensive intervention for 5 consecutive years, shall, subject to the exemption in subparagraph (D)(iii), fully implement the comprehensive restructuring plan by not later than the end of the year following such identification.

''(F) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude a local educational agency from implementing a policy of carrying out a comprehensive restructuring of a school more quickly than is required by this section.

''(2) FOCUSED INTERVENTION.—

''(A) IDENTIFICATION.—

''(i) IN GENERAL.—If any elementary school or secondary school served under this part does not, for 2 or more consecutive years, make adequate yearly progress as defined in the State's plan under section 1111(b)(2) but is not identified as in need of comprehensive intervention, the local educational agency shall identify the school as in need of focused intervention with respect to each group of students described in section 1111(b)(2)(C)(v) that did not meet the objectives set by the State under section 1111(b)(2)(G) in the same subject area for both years.

''(ii) TRANSFER TO COMPREHENSIVE INTERVENTION.—In the case of a school that has been identified as in need of focused intervention under clause (i), the school will no longer be under focused intervention if the school does not make adequate yearly progress for 2 consecutive years for groups that collectively contain more than 50 percent of the students.

''(iii) EXITING FOCUSED INTERVENTION.—In the case of a school that has been identified as in need of focused intervention with respect to a focused group and focused subject under clause (i), the school shall continue to be identified as in need of focused intervention and subject to the requirements of this section until the focused group meets or exceeds the objectives set by the State under section 1111(b)(2)(G) for the focused subject for 2 consecutive years.

''(B) DEFINITIONS.—In this paragraph—

''(i) the term 'focused group' means the group of students described in subparagraph (A)(i); and

''(ii) the term 'focused subject' means each subject area for which the focused group did not meet the objectives set by the State under section 1111(b)(2)(G) for both years.

''(C) MULTIPLE GROUPS.—A school may be identified for focused improvement under this paragraph for more than 1 focused group of students and with respect to more than 1 focused subject, and shall carry out the requirements of this paragraph for each such group and subject.

''(D) PLAN IMPLEMENTATION IN YEARS 1, 2, 3, AND 4.—In the case of a school identified as in need of focused intervention for the same focused group and 1 or more of the same focused subjects for 2 consecutive years—

''(i) the school shall implement the school intervention plan under section 1115A and issue an annual progress report regarding the implementation to the public by not later than the following academic year; and

''(ii) the local educational agency shall target supplemental educational services to students in the focused group while allowing other students to participate in accordance with subsection (E) by not later than the following academic year.

''(E) PUBLIC SCHOOL TRANSFER IN YEAR 1.—In the case of a school identified as in need of focused intervention for the same focused group and 1 or more of the same focused subjects for 2 consecutive years—

''(i) the school shall continue to implement the intervention plan and provide annual progress reports, as required under subparagraph (D)(i);

''(ii) the local educational agency shall continue to provide supplemental educational services under subparagraph (D)(ii); and

''(iii) by not later than 6 weeks before the start of the first school year of intervention plan implementation, the local educational agency serving the school shall notify the parents of the students attending the school of the parents' right to transfer the students to another public school that is not identified as in need of comprehensive intervention and shall provide such right.

''(F) FOCUSED RESTRUCTURING PLAN DEVELOPMENT IN YEAR 4.—In the case of a school identified as in need of focused intervention for the same focused group and 1 or more of the same focused subjects for 4 consecutive years, the local educational agency, in consultation with the school and in addition to plan implementation as defined in subparagraph (D), shall carry out clauses (i) and (ii).

''(i) IN GENERAL.—The local educational agency, in consultation with school intervention specialists from the local educational agency and the State educational agency, and parent and community representatives, shall—

''(I) develop a focused restructuring plan that may utilize additional school improvement funding provided to the State educational agency;

''(II) obtain certification of the plan from the chief school officer of the local educational agency and the chief State school officer attesting that the plan meets the requirements of this subparagraph and is reasonably designed to ensure that the school will make adequate yearly progress in the succeeding years; and

''(III) after certification, make the focused restructuring plan publicly available.

''(ii) CONTENTS.—A focused restructuring plan for a school subject to this subparagraph shall include a plan to carry out 1 or more of the following as consistent with State law:

''(I) Reassigning the majority of the staff at the school associated with the subgroups that did not meet adequate yearly progress, and ensuring that, in the subsequent year, the staff serving the students in these subgroups do not have a greater percentage of teachers who are not highly effective than the average percentage of such teachers in the schools served by the local educational agency.

''(II) Entering into an agreement with a private or non-profit organization with a proven record of improving schools and school instruction to manage and staff the instructional areas not meeting adequate yearly progress.

''(G) FOCUSED RESTRUCTURING PLAN IMPLEMENTATION IN YEAR 5.—In the case of a school identified as in need of focused intervention for the same focused group and 1 or more of the same focused subjects for 5 consecutive years, the local educational agency shall implement the certified focused restructuring plan in the following school year.

''(H) CONTINUED PLAN IMPLEMENTATION IN YEAR 6 AND BEYOND.—In the case of a school identified as in need of focused intervention for the same focused group and 1 or more of the same focused subjects for 6 or more consecutive years, the local educational agency shall continue refining the intervention plan and the local educational agency shall use sufficient funds available under this title to carry out extended time instructional programs for students in the focused group.

''(3) GENERAL PROVISIONS.—

''(A) DEADLINE.—The identification of a school as in need of comprehensive intervention under paragraph (1) or focused intervention under paragraph (2) shall take place before the beginning of the school year following the failure to make adequate yearly progress.

''(B) FOCUSED ASSISTANCE SCHOOLS.—To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 1115 should be identified as in need of comprehensive intervention or focused intervention under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

''(4) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT.—

''(A) IDENTIFICATION.—Before identifying an elementary school or a secondary school as in need of comprehensive intervention or focused intervention under paragraphs (1) or (2), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

''(B) EVIDENCE.—If the principal of a school proposed for identification as in need of comprehensive intervention or focused attention under paragraphs (1) or (2) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the State educational agency, which shall consider that evidence before making a final determination within 30 days.

''(5) TECHNICAL ASSISTANCE.—

''(A) IN GENERAL.—For each school identified as in need of comprehensive intervention or focused intervention under paragraph (1) or (2), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under either such paragraph throughout the plan's duration.

''(B) SPECIFIC ASSISTANCE.—Such technical assistance—

''(i) shall include assistance in gathering and analyzing data from assessments and other examples of student work, to identify and address—

''(I) problems in instruction; and

''(II) problems, if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan; and

''(III) solutions to such problems;

''(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school-improvement;

''(iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school-improvement status; and

''(iv) may be provided—

''(I) by the local educational agency, through mechanisms authorized under section 1117; or

''(II) by the State educational agency, an institution of higher education (that is in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

''(C) SCIENTIFICALLY BASED RESEARCH.—Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

''(6) INDEPENDENT AUDIT OF SPACE AVAILABILITY.—

''(A) IN GENERAL.—Each local educational agency serving any school identified as in need of comprehensive intervention under paragraph (1) shall annually document (through an independent audit that may be conducted by the State educational agency) the space in public schools served by such agency that are making adequate yearly progress that is available for transfers under paragraph (1)(C) or (2)(E).

''(B) RULE IF INADEQUATE SPACE.—The Secretary shall deem a local educational agency to have met its obligations under paragraph (1)(C) or (2)(E) if—

''(i) an audit under subparagraph (A) determines that the requirements of paragraph (1)(C) or (2)(E) cannot be met because of—

''(I) the lack of physical space, and the inability to reasonably acquire additional physical space (such as the lack of land to place portable classrooms);

''(II) the inability to acquire new classroom space; or

''(III) State and local health or safety laws and regulations; and

''(ii) the local educational agency makes available for transfers under such paragraph all the space determined by the audit to be practically available.

''(7) NOTICE TO PARENTS.—A local educational agency shall promptly provide to a parent or parents of each student enrolled in an elementary school or a secondary school identified for comprehensive intervention or each student in a focused group in an elementary school or secondary school identified for focused intervention (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand)—

''(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

''(B) the reasons for the identification;

''(C) an explanation of what the school identified is doing to address the problem of low achievement;

''(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

''(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

''(F) an explanation of the parents' option to transfer their child to another public school under paragraph (1)(C) or (2)(E), (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, under paragraph (1) or (2) and in accordance with subsection (e).

''(8) DELAY.—Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of restructuring if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

''(9) TRANSPORTATION.—In the case of any school identified as in need of comprehensive intervention or focused intervention that is required to provide public school transfer under paragraph (1)(C) or (2)(E), the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

''(10) FUNDS FOR TRANSPORTATION AND SUPPLEMENTAL EDUCATIONAL SERVICES.—

''(A) IN GENERAL.—Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e), a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2, from which the agency shall spend—

''(i) an amount equal to 5 percent of its allocation under subpart 2 to provide, or pay for, transportation under paragraph (8);

''(ii) an amount equal to 5 percent of its allocation under subpart 2 to provide supplemental educational services under subsection (e); and

''(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 for transportation under paragraph (8), supplemental educational services under subsection (e), or both, as the agency determines.

''(B) TOTAL AMOUNT.—The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e).

''(C) INSUFFICIENT FUNDS.—If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

''(D) PROHIBITION.—A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 1113(c) to a school described in paragraph (7)(C) or (8)(A) of subsection (b).

''(11) SPECIAL RULES REGARDING SCHOOL TRANSFER.—

''(A) CONTINUATION OF SCHOOLING.—A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for as in need of comprehensive intervention or focused intervention.

''(B) SPECIAL VOLUNTARY SCHOOL CHOICE PROGRAMS.—A local educational agency receiving assistance under this part that offers a voluntary school choice program, other than the program specified in section 1116(i), for students served by the local educational agency, shall not offer such program before first making the voluntary program available to all students in schools served by the local educational agency that are identified as in need of comprehensive intervention or focused intervention, with priority to students in schools identified as in need of comprehensive intervention.

''(C) COOPERATIVE AGREEMENT.—In any case where a local educational agency is required to provide public school transfer under paragraph (1)(C) or (2)(E) and all public schools served by the local educational agency to which a child may transfer are identified as in need of comprehensive intervention, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

''(12) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—The State educational agency shall—

''(A) make technical assistance under section 1117 available to schools identified as in need of comprehensive intervention or focused intervention under this subsection consistent with section 1117(a)(2);

''(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;

''(C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and

''(D) for local educational agencies or schools identified for comprehensive intervention or in need of focused intervention under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 1111(b)(9) that have significantly affected student academic achievement.'';

(3) by striking paragraph (1) of subsection (c) and inserting the following:

''(1) SUPPLEMENTAL EDUCATIONAL SERVICES.—The local educational agency serving any school required under paragraph (1) or (2) of subsection (b) to provide supplemental educational services shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.'';

(4) in subsection (g), by striking paragraphs (3) and (4) and inserting the following:

''(3) SCHOOL-IMPROVEMENT FOR DEPARTMENT OF INTERIOR SCHOOLS.—

''(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Department of Interior which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such

school shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any comprehensive intervention plan or comprehensive restructuring plan as described in subsection (b)(1) or focused intervention plan or focused restructuring plan as described in subsection (b)(2), except for the requirements to provide public school transfer under paragraph (1)(C) or (2)(E) of subsection (b). The Department of Interior shall be responsible for meeting the requirements of subsection (b)(5) relating to technical assistance.

''(B) DEPARTMENT OPERATED SCHOOLS.—For schools operated by the Department of the Interior, the Department shall be responsible for meeting the requirements of subsection (b) relating to development and implementation of any comprehensive intervention plan or comprehensive restructuring plan as described in subsection (b)(1), or focused intervention plan or focused restructuring plan as described in subsection (b)(2), except for the requirements to provide public school transfer under paragraph (1)(C) or (2)(E) of subsection (b).

''(4) CORRECTIVE ACTION AND RESTRUCTURING FOR BUREAU-FUNDED SCHOOLS.—

''(A) CONTRACT AND GRANT SCHOOLS.—For a school funded by the Department of Interior which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act (25 U.S.C. 450 et seq.) or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of paragraph (1) or (2) of subsection (b). Any action taken by such school board under subsection (b)(1)(D) shall take into account the unique circumstances and structure of the Department of Interior-funded school system and the laws governing that system.

''(B) BUREAU OPERATED SCHOOLS.—For schools operated by the Department of Interior, the Department shall be responsible for meeting the requirements of paragraph (1) or (2) of subsection (b). Any action taken by the Department under subsection (b)(1)(D) shall take into account the unique circumstances and structure of the Department of Interior-funded school system and the laws governing that system.

''(5) ANNUAL REPORT.—On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the appropriate committees of Congress regarding any schools funded by the Department of Interior which have been identified for comprehensive intervention or focused intervention. Such report shall include—

''(A) the identity of each school;

''(B) a statement from each affected school board regarding the factors that lead to such identification; and

''(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.''; and (5) in subsection (h), by striking ''(b)(14)(D)'' and inserting ''(b)(12)(D)''.

SEC. 405. COUNTING ALL CHILDREN.

(a) CONFIDENCE INTERVALS.—Subparagraph (G) of section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(G)) is amended by adding at the end the following flush sentence:

''Confidence intervals of not greater than 95 percent may be used for purposes of this subparagraph, except that a school that has implemented a growth model system under section 1120D may not use confidence intervals.''.

(b) NUMBER OF STUDENTS NECESSARY FOR STATISTICALLY RELIABLE INFORMATION.—Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended by adding at the end the following:

''(n) INSUFFICIENT NUMBER TO YIELD RELIABLE INFORMATION.—For purposes of this section—

''(1) any group of 20 students or more shall be deemed to be sufficient to yield statistically reliable information; and

''(2) the Secretary may, upon the request of a State educational agency, deem a group of students too small if—

''(A) the group consists of more than 20 but less than 31 students; and

''(B) the Secretary determines that the State educational agency has justified, through documented evidence, the need for such an interpretation.''.

SEC. 406. INCLUDING ALREADY-REQUIRED SCIENCE ASSESSMENTS IN ADEQUATE YEARLY PROGRESS.

Section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)) is amended—

(1) in subparagraph (E), by inserting ''Each State, using data for the 2001–2002 school year for mathematics and reading or language arts and data for the 2007–2008 school year for science,'' after ''Starting Point.'';

(2) by amending subparagraph (F) to read as follows:

''(F) TIMELINE.—Each State shall establish a timeline for adequate yearly progress, which shall ensure that, by the end of—

''(i) the 2013–2014 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments of mathematics and reading or language arts under paragraph (3); and

''(ii) the 2019–2020 school year, all students in each group described in subparagraph (C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments of science under paragraph (3).''; and (3) in paragraph (G)(i), by striking ''subsection (a)(3)'' and inserting ''paragraph (3) and, beginning in the 2008–2009 school year, science;''.

SEC. 407. MATHEMATICS AND SCIENCE PARTNERSHIPS.

Section 2202 (20 U.S.C. 6662) is amended—

(1) by striking subparagraph (C) of subsection (b)(2) and inserting the following:

''(C)(i) a description of how the activities to be carried out by the eligible partnership will be based on a review of scientifically based research on mathematics and science education programs that are effective in improving student academic achievement, which may include programs identified by the Director of the National Science Foundation for replication on a more expansive basis; and

''(ii) an explanation of how the activities are expected to improve student academic achievement and strengthen the quality of mathematics and science instruction;'';

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(3) by inserting after subsection (b) the following:

''(c) SPECIAL CONSIDERATION.—In awarding grants pursuant to subsection (a)(1) or awarding subgrants pursuant to subsection (a)(2), the Secretary or the State educational agency, respectively, shall give special consideration to eligible partnerships that carry out activities modeled after programs identified by the Director of the National Science Foundation for replication on a more expansive basis.'';

(4) by striking paragraph (2) of subsection (e) (as redesignated by paragraph (2)) and inserting the following:

''(2) NATIONAL SCIENCE FOUNDATION.—In carrying out the activities authorized by this part, the Secretary shall—

''(A) consult with the Director of the National Science Foundation, particularly in the conduct of summer workshops, institutes, or partnerships to improve mathematics and science teaching in elementary schools and secondary schools; and

''(B) consult with the Director of the National Science Foundation regarding the dissemination of model programs identified by the Director of the National Science Foundation to be replicated on a more expansive basis.'';

(5) in subsection (f) (as redesignated by paragraph (2))—

(A) in paragraph (2)—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) shall describe how the activities assisted under this section will be coordinated with other programs to improve mathematics and science academic achievement that are being implemented by the local educational agency that is a member of the partnership.''; and

(B) by adding at the end the following:

''(3) REPORTS.—

''(A) ELIGIBLE PARTNERSHIP REPORTS.—Each eligible partnership receiving a grant or subgrant under this part shall report annually to the Secretary regarding the eligible partnership's progress in meeting the objectives described in the accountability plan of the partnership under paragraph (2).

''(B) SECRETARY REPORTS.—The Secretary shall annually report to the appropriate committees of Congress on the effectiveness of programs assisted under this part in improving student mathematics and science academic achievement.

''(4) REVOCATION.—If the Secretary or State educational agency, as applicable, determines that an eligible partnership is not making substantial progress in meeting the objectives described in the accountability plan of the partnership under paragraph (2) by the end of the second year of the grant or subgrant under this part, then the Secretary or State educational agency shall not make a grant or subgrant payment under this part to the eligible partnership for the third year of the grant or subgrant.''.

SEC. 408. CHILDREN WITH DISABILITIES AND CHILDREN WHO ARE LIMITED ENGLISH PROFICIENT.

(a) STUDENTS WITH DISABILITIES.—Paragraph (2) of section 1111(b) (20 U.S.C. 6311(b)(2)) is amended by inserting after subparagraph (L) the following:

''(M) STUDENTS WITH DISABILITIES.—

''(i) IN GENERAL.—Subject to clause (ii), in determining whether students with disabilities meet or exceed the objectives set by the State under subparagraph (G)—

''(I) students with significant cognitive disabilities may be assessed against alternative standards using alternative assessments; and

''(II) students described in clause (iii) may be assessed against modified achievement standards that measure the same academic content as the regular student academic achievement standards under paragraph (1)(D).

''(ii) NUMERICAL LIMITS.—

''(I) STUDENTS WITH SIGNIFICANT COGNITIVE DISABILITIES.—A local educational agency may not claim the exception under clause (i)(I) for more than 1 percent of the students attending schools served by the local educational agency for each school year.

''(II) TOTAL LIMIT.—A local educational agency may not claim the exceptions under subclauses (I) and (II) of clause (i) for more

than 2 percent of the students attending schools served by the local educational agency.

''(iii) STUDENTS ASSESSED WITH MODIFIED STANDARDS.—A student is described in this clause if—

''(I) the student has a disability other than a significant cognitive disability; and

''(II) the Secretary determines by regulations that the type and level of such disability warrants the use of modified achievement standards.

''(iv) SEPARATE STANDARDS.—The determination of whether subclause (I) or (II) of clause (i) applies to a student shall be made separately from other categorizations of disabilities.

''(v) EXCEPTION.—

''(I) Each State educational agency shall provide for necessary exceptions to permit increased limits in this subparagraph where a larger limit is justified, such as a specialized facility in the local educational agency that results in a larger percentage of students than average requiring alternative assessments with alternative or modified standards.

''(II) The State educational agency must provide notification to the Secretary when providing exceptions to a local educational agency and provide an annual report to the Secretary and to the public on all the local educational agencies receiving exemptions under this paragraph. The report shall include the resulting assessment percentages associated with the approved exemptions and such additional information as the Secretary may reasonably require.

''(III) Exceptions should not be granted on the basis of poor or inaccurate identification or the inappropriate use of alternate achievement standards.

''(IV) Exception requests are appropriate where a local educational agency addresses issues such as high rates of students with the most significant cognitive disabilities; circumstances in the local education agency that would explain the higher rates such as specialized health programs or facilities; and documentation that the local educational agency has implemented safeguards that limit the inappropriate use of alternative achievement standards. These safeguards may include implementing State guidelines through the Individualized Educational Plan process; informing parents about the actual achievement of students; reporting, to the extent possible, on test-taking patterns; including these students in the general curriculum; providing information about the use of appropriate accommodations; and ensuring that teachers and other educators participate in appropriate professional development about alternate assessments.

''(vi) STATE PLAN.—Each State plan shall demonstrate how the provisions of this section are to be communicated to all public school principals and special education teachers in the State. The State plan shall also demonstrate that each local educational agency within the State monitors the implementation of this subparagraph to ensure that the subparagraph is uniformly applied to all schools served by such agency.''.

(b) STUDENTS WHO ARE LIMITED ENGLISH PROFICIENT.—Paragraph (2) of section 1111(b) of such Act is amended by inserting after subparagraph (M) the following:

''(N) STUDENTS WHO ARE LIMITED ENGLISH PROFICIENT.—

''(i) IN GENERAL.—Notwithstanding this section, a State may—

''(I) exempt a recently arrived limited English proficient student from taking the assessments during the first year that the student is enrolled in a school in the United States, and not include such student in determining the percentage of students enrolled in a school that are required to take the assessments under subparagraph (I); and

''(II) choose to not include the assessment results of all recently arrived limited English proficient students in the State for the first year in which the students are enrolled in a school in the United States for the purposes of determining if a group described in subparagraph (C)(v) has met or exceeded the objectives set by the State under subparagraph (G) for a school year.

''(ii) RETENTION IN LIMITED ENGLISH PROFICIENT STUDENT GROUP.—

''(I) IN GENERAL.—Notwithstanding this subparagraph, in determining whether the subgroup of limited English proficient students met or exceeded the objectives for a school or local educational agency, a State may include in such subgroup the assessment results of students who—

''(aa) were limited English proficient, as determined by the State; and

''(bb) whose English proficiency has improved so that the students are no longer limited English proficient, as determined by the State.

''(II) TIME PERIOD.—A State may include a student described in subclause (I) in the subgroup of limited English proficient students only during the 3 school years following the determination that the student is no longer limited English proficient.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to relieve a State or local educational agency from its responsibility under applicable law to provide recently arrived limited English proficient students and students who were limited English proficient but who are no longer limited English proficient, as determined by the State, with appropriate instruction to assist such students in gaining English-language proficiency as well as meeting or exceeding the proficient levels of achievement in mathematics, reading or language arts, and science.''.

SEC. 409. EARLY CHILDHOOD DEVELOPMENT.

Paragraph (1) of section 1116(b) (20 U.S.C. 6316(b)) is amended by adding at the end the following new subparagraph:

''(G) EARLY CHILDHOOD EDUCATION IMPROVEMENT.—

''(i) IN GENERAL.—In the case of an elementary school identified as in need of comprehensive or focused intervention, the local educational agency shall administer developmental screens and assessments to preschool and kindergarten students who are enrolled in the school or as provided for in clause (iv), for purposes of—

''(I) identifying areas for which instructional intervention is necessary in the areas of pre-literacy and pre-numeracy for each cohort of preschool or kindergarten students;

''(II) improving instruction and services being offered to preschool and kindergarten students; and

''(III) determining whether diagnostic assessments are necessary to identify needed interventions, including in the areas of literacy and mathematics.

''(ii) DEVELOPMENT SCREENS AND ASSESSMENTS.—The developmental screens and assessments described in clause (i) shall be screens and assessments scientifically determined to be valid, reliable, and appropriate for the population for whom the screens and assessments are being used.

''(iii) RESTRICTIONS ON USE.—The results of the screens and assessments described in clause (i) shall be used for improving instruction and services, and shall not be used for accountability-based decisions regarding students, schools, or local educational agencies.

''(iv) EARLIEST GRADE.—An elementary school that does not have preschool or kindergarten shall administer such screens and assessments before or during entrance into the earliest grade offered by the school.''.

SEC. 410. ADJUNCT TEACHER CORPS.

Subpart 3 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6711 et seq.) is amended to read as follows:

''Subpart 3—Adjunct Teacher Corps

''SEC. 2341. DECLARATION OF PURPOSE.

''It is the purpose of this subpart to create opportunities for professionals and other individuals with subject-matter expertise to teach secondary school courses in the core academic subjects, particularly mathematics, science, and critical foreign languages, on an adjunct basis.

''SEC. 2342. ADJUNCT TEACHER PROGRAM.

''(a) PROGRAM AUTHORIZED.—The Secretary shall award grants, on a competitive basis, to eligible entities to enable the eligible entities to recruit and train well-qualified individuals to serve as adjunct teachers in secondary school courses in the core academic subjects, and to place such individuals as adjunct teachers in secondary schools.

''(b) ELIGIBLE ENTITY.—For the purpose of this subpart, an eligible entity is—

''(1) a local educational agency;

''(2) a public or private entity (which may be a State educational agency); or

''(3) a partnership consisting of a local educational agency and a public or private entity.

''(c) DURATION OF GRANTS.—The Secretary shall award each grant under this subpart for a period of not more than 5 years.

''(d) PRIORITIES.—In awarding grants under this subpart, the Secretary shall give priority to eligible entities that propose to—

''(1) serve local educational agencies that have a large number or percentage of students performing below grade level, including local educational agencies that are not making adequate yearly progress as defined in the State plan under section 1111(b)(2);

''(2) recruit and train adjunct teachers in mathematics, science, or critical foreign languages, and provide schools with the adjunct teachers; and

''(3) recruit adjunct teachers to serve in schools that have an insufficient number of teachers with expertise in the subjects the adjunct teachers will teach.

''(e) APPLICATION.—

''(1) IN GENERAL.—An eligible entity desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

''(2) CONTENTS.—The application shall, at a minimum, include a description of—

''(A) the need for, and expected benefits of using, adjunct teachers in the participating schools, which may include information on the difficulty participating schools face in recruiting effective faculty and the achievement levels of students in those schools;

''(B) the goals and objectives for the project, including the number of adjunct teachers the eligible entity intends to place in classrooms and the specific gains in academic achievement intended to be achieved;

''(C) how the eligible entity will recruit experienced individuals and appropriate public and private entities to participate in the program;

''(D) the participating schools at which, and the grade levels and subjects in which, the eligible entity proposes to have the adjunct faculty teach;

''(E) how the eligible entity will use funds received under this subpart, including how the eligible entity will use funds to evaluate the success of the program;

''(F) how the eligible entity will ensure that low-income students, defined through

their eligibility for free and reduced-price lunches under the Richard B. Russell National School Lunch Act, in participating schools and local educational agencies will, during the period of the grant, receive instruction in the core academic subjects from a teacher with expertise in the subject taught;

''(G) the eligible entity's commitment, after the project period ends, to continue to hire and employ adjunct teachers, as needed, to teach secondary school courses, particularly mathematics, science, and critical foreign languages; and

''(H) how the eligible entity will overcome legal, contractual, or administrative barriers to the employment of adjunct faculty in each participating State educational agency or local educational agency.

''(f) USES OF FUNDS.—Each eligible entity that receives a grant under this subpart shall use the grant funds only to carry out 1 or more of the following:

''(1) To develop the capacity of the local educational agency or the State educational agency participating in the eligible entity to identify, recruit, and train qualified individuals outside of the elementary and secondary education system (including individuals in business and government, and individuals who would participate through distance-learning arrangements) to become adjunct teachers.

''(2) To provide financial incentives to adjunct teachers.

''(3) To reimburse outside entities for the costs associated with allowing an employee to serve as an adjunct teacher, except that the costs shall not exceed the corresponding total costs of salary and benefits for teachers with comparable experience or expertise in the local educational agency.

''(4) To collect and report such performance information as the Secretary may require, including information needed for the national evaluation conducted under subsection (h).

''(g) MATCHING REQUIREMENT.—Each eligible entity that receives a grant under this section shall match the grant funds with non-Federal funds, in cash or in kind.

''(h) NATIONAL EVALUATION.—From the amount made available for any fiscal year under subsection (k), the Secretary shall reserve such sums as may be necessary to conduct an independent evaluation, by grant or by contract, of the adjunct teacher corps program carried out under this subpart, which shall include an assessment of the impact of the program on student academic achievement. The Secretary shall report the results of this evaluation to the appropriate committees of Congress.

''(i) PROGRAM PERFORMANCE.—

''(1) FINAL REPORT.—Each eligible entity receiving a grant under this section shall prepare and submit to the Secretary a final report on the results of the grant that shall include—

''(A) information on the academic achievement of students receiving instruction from an adjunct teacher; and

''(B) such other information as the Secretary may require.

''(2) CONTENTS.—The information required for the report under this subsection shall be—

''(A) reported in a manner that provides for a comparison of student achievement data prior to, during, and after implementation of the adjunct teacher corps program under this subpart; and

''(B) disaggregated by race, ethnicity, disability status, limited English proficient status, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which—

''(i) the number of students in a category is insufficient to yield statistically reliable information; or

''(ii) the result would reveal personally identifiable information about an individual student.

''(j) DEFINITIONS.—In this subpart:

''(1) ADJUNCT TEACHER.—The term 'adjunct teacher' means a teacher who—

''(A) possesses, at a minimum, a baccalaureate degree;

''(B) has demonstrated expertise in the subject matter the teacher teaches;

''(C) during the first year assists the teacher of record or shall receive other mentoring services;

''(D) is subject to the same teacher effectiveness provisions as other teachers; and

''(E) is not required to meet the other requirements of section 9101(23).

''(2) CRITICAL FOREIGN LANGUAGE.—The term 'critical foreign language' means a foreign language considered most critical to ensure future United States national security and economic prosperity, as determined by the Secretary.

''(3) SECONDARY SCHOOL COURSE.—The term 'secondary school course' means a course in 1 of the core academic subjects (as that term is defined in section 9101) provided to students in grades 6 through 12.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $25,000,000 for fiscal year 2008 and such sums as may be necessary for each of the 4 succeeding years.''.

TITLE V—ENHANCEMENTS

SEC. 501. PURPOSES.

The purposes of this title are to—

(1) permit low-income students in schools not making adequate yearly progress with the option to go to another public school outside of their own district and have Federal funds follow the child;

(2) provide incentives for the equitable distribution of funds to public charter schools;

(3) improve programs for parental involvement;

(4) provide evidence-based intervention models to improve access to early intervention, early identification, and improved academic outcomes for all students;

(5) incorporate universal design for learning properties to provide a research-based framework for designing curricula including goals, teaching methods, instructional materials, and assessments, that enables all individuals to gain knowledge, skills, and enthusiasm for learning;

(6) double over 3 years the research and development investment to develop innovative education models and strengthen the scientifically based information necessary under the Elementary and Secondary Education Act of 1965;

(7) expand access to supplemental educational services;

(8) increase support for foster children and youth;

(9) disaggregate graduation rates and hold schools accountable for closing the achievement gap in graduation rates; and

(10) develop high school improvement plans.

SEC. 502. AUTHORIZATIONS.

For the purpose of carrying out this title, in addition to other amounts already authorized, there are to be appropriated $750,000,000 for fiscal year 2008 and such sums as may be necessary for each of the 4 succeeding fiscal years.

SEC. 503. PUBLIC SCHOOL CHOICE.

Section 1116 (20 U.S.C. 6316) is amended by adding at the end the following:

''(i) OUT-OF-DISTRICT TRANSFER PROGRAM TO ANOTHER PUBLIC SCHOOL.—

''(1) PROGRAM AUTHORIZED.—From amounts authorized under paragraph (5), the Secretary is authorized to make payments to local education agencies on behalf of eligible students attending schools that are in need of comprehensive intervention, to enable such students to transfer to elementary or secondary schools served by other local educational agencies.

''(2) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE STUDENT.—the term 'eligible student' means an elementary or secondary school student who—

''(i) is from a low-income family as determined by eligibility for free and reduced-price lunches under the Richard B. Russell National School Lunch Act;

''(ii) at the time of application, is enrolled in a school that is in need of comprehensive intervention; and

''(iii) is unable to take advantage of public school choice under subsection (b)(1)(D) because—

''(I) all public schools in the local educational agency for the student's grade are identified as in need of comprehensive intervention; or

''(II) all public schools that are not so identified do not have availability to take additional students.

''(B) RECEIVING SCHOOL.—The term 'receiving school' means a public elementary or secondary school that—

''(i) is served by a local educational agency and is located nearby the student's home school;

''(ii) is not identified as being in need of comprehensive intervention for the school year preceding the year the student participates in the program under this subsection; and

''(iii) agrees to accept students participating in the program under this subsection.

''(3) AWARD BASIS.—If the amounts appropriated under paragraph (5) for a fiscal year are not sufficient to award payments, the Secretary shall give a priority to students in States or localities that offer matching grants or cost sharing with the Federal funding.

''(4) PAYMENTS.—

''(A) IN GENERAL.—For each student that participates in the program under this section, the Secretary shall make a payment to the local educational agency that serves the receiving school that accepts such student, to be used toward the costs of providing a quality public education to the eligible students.

''(B) AMOUNT.—The amount of a payment provided on behalf of a student under this section shall be up to $5,000 a year, of which—

''(i) not more than the average amount of Federal funds per student from title I and title V of the Elementary and Secondary Education Act of 1965 in the originating local educational agency shall be transferred from the originating local educational agency of the school in need of comprehensive intervention to the receiving local educational agency;

''(ii) not more than $4,000 shall be used by the receiving local educational agency for tuition, fees, and transportation related to providing public education to eligible students; and

''(ii) not more than $1,000 shall be used to provide mentoring for eligible students transferring to the new school and to offer parental involvement programs for the eligible student.

''(5) AUTHORIZATION OF APPROPRIATIONS.—From the amounts authorized to be appropriated under section 502 of the All Students Can Achieve Act, there are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 2008 and for the 4 succeeding fiscal years.''.

SEC. 504. PUBLIC CHARTER SCHOOLS.

(a) IDEA AND CHARTER SCHOOLS.—Section 5205(a) (20 U.S.C. 7221(d)) is amended by adding at the end the following:

''(6) To provide technical assistance to public charter schools on how to meet the requirements of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).''.

(b) Charter School Equitable Funding.-Section 5202(e)(3) (20 U.S.C. 7221e(e)(3)) is amended by adding at the end the following:

''(D) The State—

''(i) provides public charter schools with funding commensurate with that provided to other public schools, including provision for school facilities; and

''(ii) ensures that each local educational agency sends to the charter schools the Federal, State and local dollars to which the charter schools are entitled in a timely manner.''.

(c) AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC CHARTER SCHOOL PROGRAMS.—Section 5211 (20 U.S.C. 7221j) is amended to read as follows:

''SEC. 5211. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated—

''(1) to carry out this subpart (except for section 5205(b)), $250,000,000 for fiscal year 2008 and each of the 4 succeeding fiscal years; and

''(2) to carry out section 5205(b), $30,000,000 for fiscal year 2008 and each of the 4 succeeding fiscal years.''.

SEC. 505. PARENTAL INVOLVEMENT.

Section 1118 (20 U.S.C. 6318) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (E), by striking ''and'' after the semicolon;

(B) in subparagraph (F), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(G) in the case of a State where a parental information and resource center is established, integrate the center in the policy and utilize the center to—

''(i) disseminate information and materials to parents; and

''(ii) provide valuable assistance to schools that have not achieved adequate yearly progress.''; and

(2) by striking subsection (h) and inserting the following:

''(h) STATE EDUCATIONAL AGENCY RESPONSIBILITIES.—

''(1) REVIEW.—Each State educational agency receiving assistance under this part shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.

''(2) OVERSIGHT.—Each State educational agency receiving assistance under this part shall designate an office or position within the State educational agency that shall—

''(A) oversee the proper implementation of the requirements pertaining to parental involvement of this part;

''(B) maintain records of all comments made to or about any local educational agency in the State with respect to the local educational agency's development and implementation of the parental involvement policy under subsection (a); and

''(C) in the case of a State that has a parental information and resource center, annually prepare and submit a report to the center that includes, for each local educational agency and public school in the State, that—

''(i) lists the scores for each local educational agency and public school in the State on the State academic assessments for each group described in section 1111(b)(2)(C)(v);

''(ii) lists each agency or school's result for each indicator of adequate yearly progress, as defined under section 1111(b)(3)(C), for each such group; and

''(iii) provides information on each agency or school's compliance with the requirements pertaining to parental involvement under this part.''.

SEC. 506. RESPONSE TO INTERVENTION.

(a) INCLUSION IN LOCAL EDUCATIONAL AGENCY PLANS UNDER SECTION 1112.—Subparagraph (C) of section 1112(b)(1) of the Elementary and Secondary Education Act of 1965 is amended by inserting before the semicolon '', such as through an evidence-based intervention model described in section 1114(b)(1)(B)(v)''.

(b) INCLUSION IN SCHOOLWIDE REFORM STRATEGIES OF SCHOOLS UNDER SECTION 1114.—Subparagraph (B) of section 1114(b)(1) of such Act is amended—

(1) by striking ''and'' at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting a semicolon; and

(3) by adding at the end the following new clauses:

''(iv) coordinate with early intervening services under section 613(f) of the Individuals with Disabilities Education Act; and

''(v) provide evidence-based intervention models that include high-quality instruction, universal screening, progress monitoring, research-based interventions matched to student needs, and educational decision-making using learning rate over time and level of performance.''.

(c) INCLUSION IN READING FIRST STRATEGIES.—Clause (ii) of section 1202(c)(7)(A) of such Act is amended—

(1) by striking ''and'' at the end of subclause (I);

(2) by striking the period at the end of subclause (II) and inserting ''; and''; and

(3) by adding at the end the following new subclause:

''(III) includes an evidence-based intervention model described in section 1114(b)(1)(B)(v) to support the activities required or permitted under this paragraph.''.

(d) INCLUSION IN PROFESSIONAL DEVELOPMENT FUNDING.—

(1) SECTION 2113(C)(2).—Paragraph (2) of section 2113(c) of such Act is amended—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(C) enable teachers to provide services under an evidence-based intervention model described in section 1114(b)(1)(B)(v).''.

(2) SECTION 2123(A)(3)(B).—Subparagraph (B) of section 2123(a)(3) of such Act is amended—

(A) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(B) by inserting after clause (iii) the following new clause:

''(iv) provide training to enable teachers to provide services under an evidence-based intervention model described in section 1114(b)(1)(B)(v).''.

SEC. 507. UNIVERSAL DESIGN FOR LEARNING.

(a) SECTION 111(B)(1)(D)(i).—Section 1111(b)(1)(D)(i) of such Act is amended—

(1) by striking ''and'' at the end of subclause (II); and

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

''(IV) may incorporate the principals of universal design for learning;''.

(b) SECTION 1111(B)(3)(C).—Section 1111(b)(3)(C) of such Act is amended—

(1) by striking ''and'' at the end of clause (xiv);

(2) by striking the period and adding ''; and'' to the end of clause (xv); and

(3) by adding at the end a new clause:

''(xvi) to the extent feasible, be universally designed assessments that are designed from the outset to enable all students, including those with disabilities, to demonstrate their knowledge, skills, and abilities in accordance with intended learning standards and instructional goals.

Based on the principles of universal design for learning, such assessments—

''(I) minimize the effect of construct-irrelevant factors, such as physical, sensory, cultural, learning, or cognitive disabilities, or language barriers, that may interfere with the accuracy of the assessment; and

''(II) provide appropriate supports for students to demonstrate the knowledge, skills, and abilities according to the intended learning standards.''.

(c) SECTION 1111(C).—Section 1111(c) of such Act is amended—

(1) by striking ''and'' at the end of paragraph (13);

(2) by striking the period and adding ''; and'' at the end of paragraph (14); and

(3) by adding at the end a new paragraph:

''(15) the State educational agency, to the extent that it is involved in selecting and recommending textbooks and other instructional materials, will encourage the purchase of textbooks and materials that are consistent with the principles of universal design for learning.''.

(d) SECTION 1111(H)(5).—Section 1111(h)(5) of such Act is amended by striking the period and inserting the following: ''a comprehensive plan developed in consultation with the experts in the field and stakeholders to address the implementation of universal design for learning. The plan must be sufficiently detailed to provide substantial guidance for activities that include research, model demonstrations, technical assistance and dissemination, technology innovations, personnel preparation, staff development and other means to develop and apply universal design for learning to standards, curriculum, teaching methods, instructional materials and assessments. The plan shall include proposed funding levels and timelines for implementing the various research, development and dissemination activities, and other components of the plan.''.

(e) SECTION 1112(C)(1).—Section 1112(c)(1) of such Act is amended—

(1) by striking ''and'' at the end of subclause (N);

(2) by striking the period and adding ''; and'' at the end of subclause (O); and

(3) by adding at the end the following:

''(P) Encourage the use of curriculum, teaching methods, instructional materials and assessments that are consistent with the principles of universal design for learning.''.

(f) SECTION 2112(B).—Section 2112(b) of such Act is amended by adding at the end the following:

''(12) A description of how the State educational agency will use funds under this part to provide training in the use of teaching methods consistent with the principles of universal design for learning.''.

(g) SECTION 2112(C)(2).—Section 2112(c)(2) of such Act is amended by inserting ''general and special education'' after ''involvement of'', and inserting ''consistent with the principle of universal learning'' after ''teaching skills''.

(h) SECTION 2402(A).—Section 2402(a) of such Act is amended by adding at the end the following:

''(9) To permit the purchase and implementation of universally designed technology, including staff development and technical support; to ensure that all students, including those with disabilities, will have an opportunity to benefit from the integration of technology into the general education curriculum; to provide frequent experiences in the use of universally designed technologies

that may be applied to large scale assessments; and to measure the impact of universally designed technologies on the learning and achievement of all learners.''.

(i) SECTION 6111(L).—Section 6111(l) of such Act is amended by inserting ''and universally designed assessments under section 1111(b)(3)(C)(xvi)'' after ''required by section 1111(b)''.

(j) SECTION 9101.—Section 9101 of such Act is amended by adding at the end the following:

''(44) UNIVERSAL DESIGN.—The term 'universal design', as defined in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002), means a concept or philosophy for designing and delivering products and services that are usable by people with the widest range of possible functional capabilities, which include products and services that are directly usable (without requiring assistive technologies) and products and services that are made usable with assistive technologies.

''(45) UNIVERSAL DESIGN FOR LEARNING.—The term 'universal design for learning' extends the concept of universal design to the field of education. It is a research-based framework for designing curriculum, including goals, methods, materials, and assessments, that enables all individuals to gain knowledge, skills, and enthusiasm for learning. Universal design for learning provides curricular flexibility (in activities, in the ways information is presented, in the ways students respond or demonstrate knowledge, and in the ways students are engaged) to reduce barriers, provide appropriate supports and challenges, and maintain high achievement standards for all students, including students with disabilities.

''(46) UNIVERSALLY DESIGNED TECHNOLOGY.—The term 'universally designed technology' means hardware and software that—

''(A) include the features necessary for use by all learners or supports integration with the necessary assistive hardware and software technologies to ensure that the hardware and software are accessible and optimized for all learners; and

''(B) provide flexibility in the ways that information is presented, in the ways that students respond or demonstrate knowledge, and in the ways in which students are engaged in order to provide appropriate support and challenge and enhance the performance for a typically diverse spectrum of learners.''.

SEC. 508. DOUBLING SCIENTIFIC-BASED EDUCATION RESEARCH AT DEPARTMENT OF EDUCATION.

There are authorized to be appropriated for research, development, and dissemination activities for the Institute of Education Sciences of the Department of Education—

(1) $163,000,000 for fiscal year 2008;
(2) $218,000,000 for fiscal year 2009;
(3) $272,000,000 for fiscal year 2010;
(4) $326,000,000 for fiscal year 2011; and
(5) $380,000,000 for fiscal year 2012;

To enhance research and development on primary and secondary education reform through scientifically based research and innovative models for education and learning.

SEC. 509. SUPPLEMENTAL EDUCATIONAL SERVICES.

(a) USE OF SCHOOL FACILITIES IN PROVIDING SUPPLEMENTAL EDUCATIONAL SERVICES.—Paragraph (2) of section 1116(e) of such Act is amended—

(1) by striking ''and'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; and''; and

(3) by inserting after subparagraph (D) the following new subparagraph:

''(E) establish a process (which may include, after consultation with parents receiving such services, reasonable limits) for approved providers to provide such services at schools which otherwise permit nonschool-affiliated groups to use school facilities.''.

(b) USE OF MULTI-DISTRICT CONSORTIUMS TO SATISFY SES REQUIREMENTS.—Subsection (e) of section 1116 of such Act is amended—

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

''(12) CONSORTIUMS.—

''(A) USE OF MULTI-DISTRICT CONSORTIUMS TO SATISFY SES REQUIREMENTS.—Local educational agencies may form consortiums to carry out the functions of such agencies under this subsection.

''(B) POOLING OF ELIGIBLE STUDENTS.—Nothing in this section shall be construed to prohibit students eligible for supplemental educational services from pooling together to attract additional provider options.''.

SEC. 510. INCREASING SUPPORT FOR FOSTER CHILDREN AND YOUTH.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) SECTION 1112(B)(1)(E)(II).—Section 1112(b)(1)(E)(ii) of the Elementary and Secondary Education Act of 1965 is amended by inserting ''foster children and youth,'' after ''homeless children,''.

(2) SECTION 1112(B)(1)(O).—Section 1112(b)(1)(O) of the Elementary and Secondary Education Act of 1965 is amended by inserting ''and foster children and youth'' after ''homeless children,''.

(3) SECTION 1113(B)(3)(A).—Section 1113(b)(3)(A) of the Elementary and Secondary Education Act of 1965 is amended by inserting ''and foster children and youth'' after ''homeless children''.

(4) SECTION 1115(B)(2).—Section 1115(b)(2) of the Elementary and Secondary Education Act is amended by inserting at the end the following:

''(F) FOSTER CHILDREN AND YOUTH.—A child or youth who is in the foster care system and attending any school served by the local educational agency is eligible for services under this part.''.

''Subtitle B—Education for Eligible Children and Youths

''SEC. 721. STATEMENT OF POLICY.

''The following is the policy of the Congress:

''(1) Each State educational agency shall ensure that each child of a homeless individual and each eligible child or youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.

''(2) In any State that has a compulsory residency requirement as a component of the State's compulsory school attendance laws or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of eligible children and youths, the State will review and undertake steps to revise such laws, regulations, practices, or policies to ensure that eligible children and youths are afforded the same free, appropriate public education as provided to other children and youths.

''(3) Homelessness alone is not sufficient reason to separate students from the mainstream school environment.

''(4) Eligible children and youths should have access to the education and other services that such children and youths need to ensure that such children and youths have an opportunity to meet the same challenging State student academic achievement standards to which all students are held.

''SEC. 722. GRANTS FOR STATE AND LOCAL ACTIVITIES FOR THE EDUCATION OF ELIGIBLE CHILDREN AND YOUTHS.

''(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to States in accordance with the provisions of this section to enable such States to carry out the activities described in subsections (d) through (g).

''(b) APPLICATION.—No State may receive a grant under this section unless the State educational agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

''(c) ALLOCATION AND RESERVATIONS.—

''(1) ALLOCATION.—(A) Subject to subparagraph (B), the Secretary is authorized to allot to each State an amount that bears the same ratio to the amount appropriated for such year under section 726 that remains after the Secretary reserves funds under paragraph (2) and uses funds to carry out section 724(d) and (h), as the amount allocated under section 1122 of the Elementary and Secondary Education Act of 1965 to the State for that year bears to the total amount allocated under section 1122 of such Act to all States for that year, except that no State shall receive less than the greater of—

''(i) $150,000;

''(ii) one-fourth of 1 percent of the amount appropriated under section 726 for that year; or

''(iii) the amount such State received under this section for fiscal year 2001.

''(B) If there are insufficient funds in a fiscal year to allot to each State the minimum amount under subparagraph (A), the Secretary shall ratably reduce the allotments to all States based on the proportionate share that each State received under this subsection for the preceding fiscal year.

''(2) RESERVATIONS.—(A) The Secretary is authorized to reserve 0.1 percent of the amount appropriated for each fiscal year under section 726 to be allocated by the Secretary among the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, according to their respective need for assistance under this subtitle, as determined by the Secretary.

''(B)(i) The Secretary shall transfer 1 percent of the amount appropriated for each fiscal year under section 726 to the Department of the Interior for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), that are consistent with the purposes of the programs described in this subtitle.

''(ii) The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of this subtitle, for the distribution and use of the funds described in clause (i) under terms that the Secretary determines best meet the purposes of the programs described in this subtitle. Such agreement shall set forth the plans of the Secretary of the Interior for the use of the amounts transferred, including appropriate goals, objectives, and milestones.

''(3) STATE DEFINED.—For purposes of this subsection, the term 'State' does not include the United States Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

''(d) ACTIVITIES.—Grants under this section shall be used for the following:

''(1) To carry out the policies set forth in section 721 in the State.

''(2) To provide activities for, and services to, eligible children and youths (including eligible children and youths of preschool age) that enable children and youths described in this paragraph to enroll in, attend, and succeed in school, or, if appropriate, in preschool programs.

''(3) To establish or designate an Office of Coordinator for Education of Homeless Children and Youths in the State educational agency in accordance with subsection (f).

''(4) To prepare and carry out the State plan described in subsection (g).

''(5) To develop and implement professional development programs for school personnel to heighten their awareness of, and capacity to respond to, specific problems in the education of eligible children and youths.

''(e) STATE AND LOCAL SUBGRANTS.—

''(1) MINIMUM DISBURSEMENTS BY STATES.—From the sums made available each year to carry out this subtitle, the State educational agency shall distribute not less than 75 percent in subgrants to local educational agencies for the purposes of carrying out section 723, except that States funded at the minimum level set forth in subsection (c)(1) shall distribute not less than 50 percent in subgrants to local educational agencies for the purposes of carrying out section 723.

''(2) USE BY STATE EDUCATIONAL AGENCY.—A State educational agency may use funds made available for State use under this subtitle to conduct activities under subsection (f) directly or through grants or contracts.

''(3) PROHIBITION ON SEGREGATING ELIGIBLE CHILDREN AND YOUTHS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to an eligible child or youth, no State receiving funds under this subtitle shall segregate such child or youth in a separate school, or in a separate program within a school, based on such child's or youth's status as an eligible child or youth.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), paragraphs (1)(J)(i) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of eligible children or youths in schools, a State that has a separate school for eligible children or youths that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if—

''(i) the school meets the requirements of subparagraph (C);

''(ii) any local educational agency serving a school that the eligible children and youths enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

''(iii) the State is otherwise eligible to receive funds under this subtitle.

''(C) SCHOOL REQUIREMENTS.—For the State to be eligible under subparagraph (B) to receive funds under this subtitle, the school described in such subparagraph shall—

''(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

''(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

''(II) sets forth the general rights provided under this subtitle;

''(III) specifically states—

''(aa) the choice of schools eligible children and youths are eligible to attend, as provided in subsection (g)(3)(A);

''(bb) that no eligible child or youth is required to attend a separate school for eligible children or youths;

''(cc) that eligible children and youths shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs; and

''(dd) that eligible children and youths should not be stigmatized by school personnel; and

''(IV) provides contact information for the local liaison for eligible children and youths and the State Coordinator for Education of Homeless Children and Youths;

''(ii)(I) provide assistance to the parent or guardian of each eligible child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A); and

''(II) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

''(iii) ensure that the parent or guardian (or, in the case of an unaccompanied youth, the youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

''(iv) demonstrate in the school's application for funds under this subtitle that such school—

''(I) is complying with clauses (i) and (ii); and

''(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities).

''(D) SCHOOL INELIGIBILITY.—A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

''(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B)(ii) shall—

''(i) implement a coordinated system for ensuring that eligible children and youths—

''(I) are advised of the choice of schools provided in subsection (g)(3)(A);

''(II) are immediately enrolled, in accordance with subsection (g)(3)(C), in the school selected under subsection (g)(3)(A); and

''(III) are promptly provided necessary services described in subsection (g)(4), including transportation, to allow eligible children and youths to exercise their choices of schools under subsection (g)(3)(A);

''(ii) document that written notice has been provided—

''(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school under subparagraph (B); and

''(II) in accordance with subsection (g)(6)(A)(v);

''(iii) prohibit schools within the agency's jurisdiction from referring eligible children or youths to, or requiring eligible children and youths to enroll in or attend, a separate school described in subparagraph (B);

''(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and

''(v) not use funds received under this subtitle to establish—

''(I) new or additional separate schools for eligible children or youths; or

''(II) new or additional sites for separate schools for eligible children or youths, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

''(F) REPORT.—

''(i) PREPARATION.—The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph. The report shall contain, at a minimum, information on—

''(I) compliance with all requirements of this paragraph;

''(II) barriers to school access in the school districts served by the local educational agencies; and

''(III) the progress the separate schools are making in integrating eligible children and youths into the mainstream school environment, including the average length of student enrollment in such schools.

''(ii) COMPLIANCE WITH INFORMATION REQUESTS.—For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinator for Education of Homeless Children and Youths established in the State under subsection (d)(3), and shall comply with any requests for information by the Secretary and State Coordinator for such State.

''(iii) SUBMISSION.—Not later than 2 years after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall submit the report described in clause (i) to—

''(I) the President;

''(II) the Committee on Education and the Workforce of the House of Representatives; and

''(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

''(G) DEFINITION.—For purposes of this paragraph, the term 'covered county' means—

''(i) San Joaquin County, California;

''(ii) Orange County, California;

''(iii) San Diego County, California; and

''(iv) Maricopa County, Arizona.

''(f) FUNCTIONS OF THE OFFICE OF COORDINATOR.—The Coordinator for Education of Homeless Children and Youths established in each State shall—

''(1) gather reliable, valid, and comprehensive information on the nature and extent of the problems eligible children and youths have in gaining access to public preschool programs and to public elementary schools and secondary schools, the difficulties in identifying the special needs of such children and youths, any progress made by the State educational agency and local educational agencies in the State in addressing such problems and difficulties, and the success of the programs under this subtitle in allowing eligible children and youths to enroll in, attend, and succeed in, school;

''(2) develop and carry out the State plan described in subsection (g);

''(3) collect and transmit to the Secretary, at such time and in such manner as the Secretary may require, a report containing such information as the Secretary determines is necessary to assess the educational needs of eligible children and youths within the State;

''(4) facilitate coordination between the State educational agency, the State social services agency, and other agencies (including agencies providing mental health services) to provide services to eligible children and youths (including eligible children and youths of preschool age), and to families of children and youths described in this paragraph;

''(5) in order to improve the provision of comprehensive education and related services to eligible children and youths and their families, coordinate and collaborate with—

''(A) educators, including child development and preschool program personnel;

''(B) providers of services to foster, runaway, and eligible children and youths, and homeless families (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for eligible children and youth);

''(C) local educational agency liaisons designated under subsection (g)(1)(J)(ii) for eligible children and youths; and

''(D) community organizations and groups representing eligible children and youths and their families; and

''(6) provide technical assistance to local educational agencies in coordination with local educational agency liaisons designated under subsection (g)(1)(J)(ii), to ensure that local educational agencies comply with the requirements of section 722(e)(3) and paragraphs (3) through (7) of subsection (g).

''(g) STATE PLAN.—

''(1) IN GENERAL.—Each State shall submit to the Secretary a plan to provide for the education of eligible children and youths within the State. Such plan shall include the following:

''(A) A description of how such children and youths are (or will be) given the opportunity to meet the same challenging State academic achievement standards all students are expected to meet.

''(B) A description of the procedures the State educational agency will use to identify such children and youths in the State and to assess their special needs.

''(C) A description of procedures for the prompt resolution of disputes regarding the educational placement of eligible children and youths.

''(D) A description of programs for school personnel (including principals, attendance officers, teachers, enrollment personnel, and pupil services personnel) to heighten the awareness of such personnel of the specific needs of foster, runaway, and eligible children and youths.

''(E) A description of procedures that ensure that eligible children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.

''(F) A description of procedures that ensure that—

''(i) eligible children and youths of preschool age have equal access to the same public preschool programs, administered by the State agency, as provided to other children in the State;

''(ii) eligible children and youths of secondary school age and youths separated from the public schools are identified and accorded equal access to appropriate secondary education and support services; and

''(iii) eligible children and youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs.

''(G) Strategies to address problems identified in the report provided to the Secretary under subsection (f)(3).

''(H) Strategies to address other problems with respect to the education of eligible children and youths, including problems resulting from enrollment delays that are caused by—

''(i) immunization and medical records requirements;

''(ii) residency requirements;

''(iii) lack of birth certificates, school records, or other documentation;

''(iv) guardianship issues; or

''(v) uniform or dress code requirements.

''(I) A demonstration that the State educational agency and local educational agencies in the State have developed, and shall review and revise, policies to remove barriers to the enrollment and retention of eligible children and youths in schools in the State.

''(J) Assurances that—

''(i) the State educational agency and local educational agencies in the State will adopt policies and practices to ensure that eligible children and youths are not stigmatized or segregated on the basis of their status as eligible children and youths;

''(ii) local educational agencies will designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a local educational agency liaison for eligible children and youths, to carry out the duties described in paragraph (6)(A); and

''(iii) the State and its local educational agencies will adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, the liaison), to and from the school of origin, as determined in paragraph (3)(A), in accordance with the following, as applicable:

''(I) If the eligible child or youth continues to live in the area served by the local educational agency in which the school of origin is located, the child's or youth's transportation to and from the school of origin shall be provided or arranged by the local educational agency in which the school of origin is located.

''(II) If the eligible child's or youth's living arrangements in the area served by the local educational agency of origin terminate and the child or youth, though continuing his or her education in the school of origin, begins living in an area served by another local educational agency, the local educational agency of origin and the local educational agency in which the eligible child or youth is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

''(2) COMPLIANCE.—

''(A) IN GENERAL.—Each plan adopted under this subsection shall also describe how the State will ensure that local educational agencies in the State will comply with the requirements of paragraphs (3) through (7).

''(B) COORDINATION.—Such plan shall indicate what technical assistance the State will furnish to local educational agencies and how compliance efforts will be coordinated with the local educational agency liaisons designated under paragraph (1)(J)(ii).

''(3) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—

''(A) IN GENERAL.—The local educational agency serving each child or youth to be assisted under this subtitle shall, according to the child's or youth's best interest—

''(i) continue the child's or youth's education in the school of origin for the duration of homelessness, or jurisdiction of the public child welfare agency, as the case may be—

''(I) in any case in which a family becomes homeless between academic years or during an academic year; or

''(II) in any case in which a child or youth is placed in the jurisdiction of the public child welfare agency between academic years or during an academic year; or

''(III) for the remainder of the academic year, if the child or youth becomes permanently housed during an academic year; or

''(ii) enroll the child or youth in any public school that students who are not eligible children and youths and who live in the attendance area in which the child or youth is actually living are eligible to attend.

''(B) BEST INTEREST.—In determining the best interest of the child or youth under subparagraph (A), the local educational agency shall—

''(i) to the extent feasible, keep an eligible child or youth in the school of origin, except when doing so is contrary to the wishes of the child's or youth's parent or guardian;

''(ii) provide a written explanation, including a statement regarding the right to appeal under subparagraph (E), to the eligible child's or youth's parent or guardian, if the local educational agency sends such child or youth to a school other than the school of origin or a school requested by the parent or guardian; and

''(iii) in the case of an unaccompanied youth, ensure that the liaison designated under paragraph (1)(J)(ii) assists in placement or enrollment decisions under this subparagraph, considers the views of such unaccompanied youth, and provides notice to such youth of the right to appeal under subparagraph (E).

''(C) ENROLLMENT.—(i) The school selected in accordance with this paragraph shall immediately enroll the eligible child or youth, even if the child or youth is unable to produce records normally required for enrollment, such as previous academic records, medical records, proof of residency, or other documentation.

''(ii) The enrolling school shall immediately contact the school last attended by the child or youth to obtain relevant academic and other records.

''(iii) If the child or youth needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the parent or guardian of the child or youth to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall assist in obtaining necessary immunizations, or immunization or medical records, in accordance with subparagraph (D).

''(D) RECORDS.—Any record ordinarily kept by the school, including immunization or medical records, academic records, birth certificates, guardianship records, and evaluations for special services or programs, regarding each eligible child or youth shall be maintained—

''(i) so that the records are available, in a timely fashion, when a child or youth enters a new school or school district; and

''(ii) in a manner consistent with section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

''(E) ENROLLMENT DISPUTES.—If a dispute arises over eligibility for school services, school selection, enrollment in a school, or any other issue under this subtitle—

''(i) the child or youth shall be immediately enrolled in the school in which enrollment is sought, pending final resolution of the dispute, including all available appeals;

''(ii)(I) the unaccompanied youth or the parent or guardian of the child or youth shall be provided with written explanations of any related decisions made by the school, the local educational agency, or the State educational agency, which shall include information about the right to appeal the decisions; and

''(II) if the child or youth is in out-of-home care, the responsible local child welfare agency and the court involved shall also be provided with such written explanation and shall, in turn, provide such written explanations to individuals involved in the child's or youth's care, as appropriate;

''(iii) the child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under paragraph (1)(J)(ii), who shall carry out the dispute resolution process as described in paragraph (1)(C) as expeditiously as possible after receiving notice of the dispute; and

''(iv) in the case of an unaccompanied youth, the liaison shall ensure that the youth is immediately enrolled in school pending resolution of the dispute, including all available appeals.

''(F) PLACEMENT CHOICE.—The choice regarding placement shall be made regardless of whether the child or youth lives with the homeless parents or has been temporarily placed elsewhere.

''(G) SCHOOL OF ORIGIN DEFINED.—In this paragraph, the term 'school of origin' means the school that the child or youth attended when permanently housed or the school in which the child or youth was last enrolled.

''(H) CONTACT INFORMATION.—Nothing in this subtitle shall prohibit a local educational agency from requiring a parent or guardian of an eligible child to submit contact information.

''(4) COMPARABLE SERVICES.—Each eligible child or youth to be assisted under this subtitle shall be provided services comparable to services offered to other students in the school selected under paragraph (3), including the following:

''(A) Transportation services.

''(B) Educational services for which the child or youth meets the eligibility criteria, such as services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for students with limited English proficiency.

''(C) Programs in vocational and technical education.

''(D) Programs for gifted and talented students.

''(E) School nutrition programs.

''(5) COORDINATION.—

''(A) IN GENERAL.—Each local educational agency serving eligible children and youths that receives assistance under this subtitle shall coordinate—

''(i) the provision of services under this subtitle with local social services agencies and other agencies or programs providing services to eligible children and youths and their families, including services and programs funded under the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.); and

''(ii) with other local educational agencies on interdistrict issues, such as transportation or transfer of school records.

''(B) HOUSING ASSISTANCE.—If applicable, each State educational agency and local educational agency that receives assistance under this subtitle shall coordinate with State and local housing agencies responsible for developing the comprehensive housing affordability strategy described in section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) to minimize educational disruption for children and youths who become homeless.

''(C) COORDINATION PURPOSE.—The coordination required under subparagraphs (A) and (B) shall be designed to—

''(i) ensure that eligible children and youths have access and reasonable proximity to available education and related support services; and

''(ii) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness and being in the foster care system.

''(6) LOCAL EDUCATIONAL AGENCY LIAISON.—

''(A) DUTIES.—Each local educational agency liaison for eligible children and youths, designated under paragraph (1)(J)(ii), shall ensure that—

''(i) eligible children and youths are identified by school personnel and through coordination activities with other entities and agencies;

''(ii) eligible children and youths enroll in, and have a full and equal opportunity to succeed in, schools of that local educational agency;

''(iii) eligible children and youths and homeless families receive educational services for which such children and youths and families are eligible, including Head Start and Even Start programs and preschool programs administered by the local educational agency, and referrals to health care services, dental services, mental health services, and other appropriate services;

''(iv) the parents or guardians of eligible children and youths are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

''(v) public notice of the educational rights of eligible children and youths is disseminated where such children and youths receive services under this Act, such as schools, family shelters, and soup kitchens;

''(vi) enrollment disputes are mediated in accordance with paragraph (3)(E); and

''(vii) the parent or guardian of an eligible child or youth, and any unaccompanied youth, is fully informed of all transportation services, including transportation to the school of origin, as described in paragraph (1)(J)(iii), and is assisted in accessing transportation to the school that is selected under paragraph (3)(A).

''(B) NOTICE.—State coordinators established under subsection (d)(3) and local educational agencies shall inform school personnel, service providers, and advocates working with homeless families of the duties of the local educational agency liaisons.

''(C) LOCAL AND STATE COORDINATION.—Local educational agency liaisons for eligible children and youths shall, as a part of their duties, coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to eligible children and youths.

''(7) REVIEW AND REVISIONS.—

''(A) IN GENERAL.—Each State educational agency and local educational agency that receives assistance under this subtitle shall review and revise any policies that may act as barriers to the enrollment of eligible children and youths in schools that are selected under paragraph (3).

''(B) CONSIDERATION.—In reviewing and revising such policies, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.

''(C) SPECIAL ATTENTION.—Special attention shall be given to ensuring the enrollment and attendance of eligible children and youths who are not currently attending school.

''SEC. 723. LOCAL EDUCATIONAL AGENCY SUBGRANTS FOR THE EDUCATION OF ELIGIBLE CHILDREN AND YOUTHS.

''(a) GENERAL AUTHORITY.—

''(1) IN GENERAL.—The State educational agency shall, in accordance with section 722(e), and from amounts made available to such agency under section 726, make subgrants to local educational agencies for the purpose of facilitating the enrollment, attendance, and success in school of eligible children and youths.

''(2) SERVICES.—

''(A) IN GENERAL.—Services under paragraph (1)—

''(i) may be provided through programs on school grounds or at other facilities;

''(ii) shall, to the maximum extent practicable, be provided through existing programs and mechanisms that integrate eligible children and youths with noneligible children and youths; and

''(iii) shall be designed to expand or improve services provided as part of a school's regular academic program, but not to replace such services provided under such program.

''(B) SERVICES ON SCHOOL GROUNDS.—If services under paragraph (1) are provided on school grounds, schools—

''(i) may use funds under this subtitle to provide the same services to other children and youths who are determined by the local educational agency to be at risk of failing in, or dropping out of, school, subject to the requirements of clause (ii); and

''(ii) except as otherwise provided in section 722(e)(3)(B), shall not provide services in settings within a school that segregate eligible children and youths from other children and youths, except as necessary for short periods of time—

''(I) for health and safety emergencies; or

''(II) to provide temporary, special, and supplementary services to meet the unique needs of eligible children and youths.

''(3) REQUIREMENT.—Services provided under this section shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the school's regular academic program.

''(b) APPLICATION.—A local educational agency that desires to receive a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State educational agency may reasonably require. Such application shall include the following:

''(1) An assessment of the educational and related needs of eligible children and youths in the area served by such agency (which may be undertaken as part of needs assessments for other disadvantaged groups).

''(2) A description of the services and programs for which assistance is sought to address the needs identified in paragraph (1).

''(3) An assurance that the local educational agency's combined fiscal effort per student, or the aggregate expenditures of that agency and the State with respect to the provision of free public education by such agency for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

''(4) An assurance that the applicant complies with, or will use requested funds to comply with, paragraphs (3) through (7) of section 722(g).

''(5) A description of policies and procedures, consistent with section 722(e)(3), that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize eligible children and youths.

''(c) AWARDS.—

''(1) IN GENERAL.—The State educational agency shall, in accordance with the requirements of this subtitle and from amounts made available to it under section 726, make competitive subgrants to local educational agencies that submit applications under subsection (b). Such subgrants shall be awarded on the basis of the need of such agencies for assistance under this subtitle and the quality of the applications submitted.

''(2) NEED.—In determining need under paragraph (1), the State educational agency may consider the number of eligible children and youths enrolled in preschool, elementary, and secondary schools within the area served by the local educational agency, and shall consider the needs of such children and youths and the ability of the local educational agency to meet such needs. The State educational agency may also consider the following:

''(A) The extent to which the proposed use of funds will facilitate the enrollment, retention, and educational success of eligible children and youths.

''(B) The extent to which the application—

''(i) reflects coordination with other local and State agencies that serve eligible children and youths; and

''(ii) describes how the applicant will meet the requirements of section 722(g)(3).

''(C) The extent to which the applicant exhibits in the application and in current practice a commitment to education for all eligible children and youths.

''(D) Such other criteria as the State agency determines appropriate.

''(3) QUALITY.—In determining the quality of applications under paragraph (1), the State educational agency shall consider the following:

''(A) The applicant's needs assessment under subsection (b)(1) and the likelihood that the program presented in the application will meet such needs.

''(B) The types, intensity, and coordination of the services to be provided under the program.

''(C) The involvement of parents or guardians of eligible children or youths in the education of their children.

''(D) The extent to which eligible children and youths will be integrated within the regular education program.

''(E) The quality of the applicant's evaluation plan for the program.

''(F) The extent to which services provided under this subtitle will be coordinated with other services available to eligible children and youths and their families.

''(G) Such other measures as the State educational agency considers indicative of a high-quality program, such as the extent to which the local educational agency will provide case management or related services to unaccompanied youths.

''(4) DURATION OF GRANTS.—Grants awarded under this section shall be for terms not to exceed 3 years.

''(d) AUTHORIZED ACTIVITIES.—A local educational agency may use funds awarded under this section for activities that carry out the purpose of this subtitle, including the following:

''(1) The provision of tutoring, supplemental instruction, and enriched educational services that are linked to the achievement of the same challenging State academic content standards and challenging State student academic achievement standards the State establishes for other children and youths.

''(2) The provision of expedited evaluations of the strengths and needs of eligible children and youths, including needs and eligibility for programs and services (such as educational programs for gifted and talented students, children with disabilities, and students with limited English proficiency, services provided under title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, programs in vocational and technical education, and school nutrition programs).

''(3) Professional development and other activities for educators and pupil services personnel that are designed to heighten the understanding and sensitivity of such personnel to the needs of eligible children and youths, the rights of such children and youths under this subtitle, and the specific educational needs of foster, runaway, and eligible children and youths.

''(4) The provision of referral services to eligible children and youths for medical, dental, mental, and other health services.

''(5) The provision of assistance to defray the excess cost of transportation for students under section 722(g)(4)(A), not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(g)(3).

''(6) The provision of developmentally appropriate early childhood education programs, not otherwise provided through Federal, State, or local funding, for eligible children and youths of preschool age.

''(7) The provision of services and assistance to attract, engage, and retain eligible children and youths, and unaccompanied youths, in public school programs and services provided to noneligible children and youths.

''(8) The provision for eligible children and youths of before- and after-school, mentoring, and summer programs in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities.

''(9) If necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll eligible children and youths in school, including birth certificates, immunization or medical records, academic records, guardianship records, and evaluations for special programs or services.

''(10) The provision of education and training to the parents of eligible children and youths about the rights of, and resources available to, such children and youths.

''(11) The development of coordination between schools and agencies providing services to eligible children and youths, as described in section 722(g)(5).

''(12) The provision of pupil services (including violence prevention counseling) and referrals for such services.

''(13) Activities to address the particular needs of eligible children and youths that may arise from domestic violence.

''(14) The adaptation of space and purchase of supplies for any nonschool facilities made available under subsection (a)(2) to provide services under this subsection.

''(15) The provision of school supplies, including those supplies to be distributed at shelters or temporary housing facilities, or other appropriate locations.

''(16) The provision of other extraordinary or emergency assistance needed to enable eligible children and youths to attend school.

''SEC. 724. SECRETARIAL RESPONSIBILITIES.

''(a) REVIEW OF STATE PLANS.—In reviewing the State plan submitted by a State educational agency under section 722(g), the Secretary shall use a peer review process and shall evaluate whether State laws, policies, and practices described in such plan adequately address the problems of eligible children and youths relating to access to education and placement as described in such plan.

''(b) TECHNICAL ASSISTANCE.—The Secretary shall provide support and technical assistance to a State educational agency to assist such agency in carrying out its responsibilities under this subtitle, if requested by the State educational agency.

''(c) NOTICE.—The Secretary shall, before the next school year that begins after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, create and disseminate nationwide a public notice of the educational rights of eligible children and youths and disseminate such notice to other Federal agencies, programs, and grantees, including Head Start grantees, Health Care for the Homeless grantees, Emergency Food and Shelter grantees, and homeless assistance programs administered by the Department of Housing and Urban Development.

''(d) EVALUATION AND DISSEMINATION.—The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of eligible children and youths who are elementary and secondary school students, and may use funds appropriated under section 726 to conduct such activities.

''(e) SUBMISSION AND DISTRIBUTION.—The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

''(f) DETERMINATION BY SECRETARY.—The Secretary, based on the information received from the States and information gathered by the Secretary under subsection (h), shall determine the extent to which State educational agencies are ensuring that each eligible child or youth has access to a free appropriate public education, as described in section 721(1).

''(g) GUIDELINES.—The Secretary shall develop, issue, and publish in the Federal Register, not later than 60 days after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, school enrollment guidelines for States with respect to eligible children and youths. The guidelines shall describe—

''(1) successful ways in which a State may assist local educational agencies to immediately enroll eligible children and youths in school; and

''(2) how a State can review the State's requirements regarding immunization and medical or school records and make such revisions to the requirements as are appropriate and necessary in order to enroll eligible children and youths in school immediately.

''(h) INFORMATION.—

''(1) IN GENERAL.—From funds appropriated under section 726, the Secretary shall, directly or through grants, contracts, or cooperative agreements, periodically collect and disseminate data and information regarding—

''(A) the number and location of eligible children and youths;

''(B) the education and related services such children and youths receive;

''(C) the extent to which the needs of eligible children and youths are being met; and

''(D) such other data and information as the Secretary determines to be necessary and relevant to carry out this subtitle.

''(2) COORDINATION.—The Secretary shall coordinate such collection and dissemination with other agencies and entities that receive assistance and administer programs under this subtitle.

''(i) REPORT.—Not later than 4 years after the date of enactment of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, the Secretary shall prepare and submit to the President and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the status of education of eligible children and youths, which shall include information on—

''(1) the education of eligible children and youths; and

''(2) the actions of the Secretary and the effectiveness of the programs supported under this subtitle.

''SEC. 725. DEFINITIONS.

''For purposes of this subtitle:

''(1) The term 'eligible children and youths' includes—

''(A) individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1));

''(B)(i) children and youths who—

''(I) are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;

''(II) are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;

''(III) are living in emergency or transitional shelters;

''(IV) are abandoned in hospitals; or

''(V) are awaiting foster care placement;

''(ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C));

''(iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

''(iv) migratory children (as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1965) who are considered eligible for the purposes of this subtitle because the children are living in circumstances described in clauses (i) through (iii); and

''(C) children and youths in out-of-home care under the jurisdiction of the responsible public child welfare agency, including foster care, kinship care, care in a group home, and care in a child care institution.

''(2) The terms 'enroll' and 'enrollment' include attending classes and participating fully in school activities.

''(3) The terms 'local educational agency' and 'State educational agency' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965.

''(4) The term 'parent or guardian', used with respect to a child or youth in out-of-home care, means—

''(A) the person who is the birth or adoptive parent or legal guardian of the child or youth, unless—

''(i) such person's right to make educational decisions for the child or youth has been terminated or suspended by a court; or

''(ii) the person cannot be identified or located after reasonable efforts, is not available with reasonable promptness to assist in enrollment or placement decisions, or is not acting in the best educational interests of the child in enrollment or placement decisions; or

''(B) in a situation described in clause (i) or (ii) of subparagraph (A), a person appointed by a court to make educational decisions for the child or youth under this Act, after considering (in the case of a child or youth who is eligible for services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)) whether the person considered to be the parent of the child or youth for purposes of that Act should serve as the person to make those educational decisions.

''(5) The term 'Secretary' means the Secretary of Education.

''(6) The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(7) The term 'unaccompanied youth' includes a youth not in the physical custody of a parent or guardian.

''SEC. 726. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this subtitle, there are authorized to be appropriated $150,000,000 for fiscal year 2008 and such sums as may be necessary for each of the 4 succeeding years .''.

SEC. 511. GRADUATION RATES.

(a) DISAGGREGATION OF GRADUATION RATES AND ELEMENTARY SCHOOL INDICATOR IN DETERMINING ADEQUATE YEARLY PROGRESS.—Subparagraph (D) of section 1111(b)(2) of such Act is amended—

(1) by striking ''and'' at the end of clause (i);

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following new clause:

''(ii) shall determine adequate yearly progress using graduation rates of public secondary school students (measured separately for each group described in subparagraph (C)(v)); and''.

(b) GOALS FOR INCREASING GRADUATION RATES FOR GROUPS OF STUDENTS.—

(1) IN GENERAL.—Subparagraph (G) of section 1111(b)(2) of such Act is amended—

(A) by striking ''and'' at the end of clause (iv);

(B) by striking the period at the end of clause (v) and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(vi) shall ensure each group of students described in subparagraph (C)(v) meets—

the graduation rate for public secondary school students.

(2) SAFE HARBOR.—Clause (i) of section 1111(b)(2)(I) of such Act is amended to read as follows:

''(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if—

''(I) except in the case of the objectives described in subparagraph (G)(vi), the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

''(II) in the case of the objectives described in subparagraph (G)(vi)—

''(aa) the school meets the objectives described in subparagraph (G)(vi), or for any school year prior to the school year which is at the end of the timeline described in subparagraph (F), meets the intermediate goals for such objectives described in subparagraph (H); or

''(bb) there is less than a 5 percentage point difference between the group described in subparagraph (C)(v) having the highest rate and the group so described having the lowest rate (except that students with disabilities who are not assessed against grade level content standards shall not be taken into account in determining adequate yearly progress for public secondary school students and public elementary school students); and''.

(c) GRADUATION RATES DETERMINED USING 4-YEAR ADJUSTED COHORT RATE.—Subparagraph (C) of section 1111(b)(2) of such Act is amended—

(1) by striking ''(defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years)'' in clause (vi); and

(2) by adding at the end the following new flush sentence:

''Graduation rates under clause (vi) shall be determined using a 4-year adjusted cohort rate, which compares the number of students enrolling in the 9th grade to the number of students who graduate from the 12th grade 4 years later, controlling for students transferring to other schools and allowing for children with disabilities and limited-English proficient children to have additional time to graduate. The period of additional time described in the preceding sentence shall be defined in regulation by the Secretary. A similar 3-year such cohort rate shall be used for secondary schools with only 3 grades.''.

SEC. 512. DISTRICT WIDE HIGH SCHOOLS REFORM.

(a) IN GENERAL.—Paragraph (1) of section 1112(b) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking ''and'' at the end of subparagraph (P);

(2) by striking the period at the end of subparagraph (Q) and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(R) a description of the districtwide school improvement plan (meeting the requirements of paragraph (3)(B)) that the local educational agency will implement if such agency is required by paragraph (3)(A) to implement such a plan as of the beginning of any year.''.

(b) REQUIREMENTS.—Subsection (b) of section 1112 of such Act is amended by adding at the end the following new paragraph:

''(3) DISTRICTWIDE SCHOOL IMPROVEMENT PLANS.—

''(A) IN GENERAL.—A local educational agency shall implement its districtwide school improvement plan as of the beginning of any year if—

''(i)(I) at least 50 percent of the students served by such agency are enrolled in secondary schools which did not make adequate yearly progress (as set out in the State's plan under section 1111(b)(2)) for the preceding year; or

''(II) at least 50 percent of the secondary schools served by such agency did not make such progress for such preceding year; and

''(ii) attendance rates at the secondary schools served by such agency that did not make such progress for such preceding year, and the attendance rates of 8th grade students (or the highest grade before entering secondary school) who would otherwise enter such schools for such preceding year, are in the bottom quartile compared to all schools served by such agency.

''(B) DISTRICTWIDE PLAN REQUIREMENTS.—A districtwide school improvement program meets the requirements of this subparagraph if—

''(i) the plan requires the local educational agency, in determining the interventions necessary to improve achievement at secondary schools served by the agency, to consider—

''(I) the status of schools in making adequate yearly progress (as set out in the State's plan under section 1111(b)(2));

''(II) graduation rates (within the meaning of section 1111(b)(2)(C)(vi)) for each group described in section 1111(b)(2)(C)(v);

''(III) assessment results and attendance rates for the highest grade at elementary schools whose students attend such agency's secondary schools; and

''(IV) the level of credit accumulation by students as of the end of the lowest grade in secondary school; and

''(ii) such plan requires the local educational agency—

''(I) to focus on the secondary schools which resulted in meeting the requirement of subparagraph (A)(i) in order to reduce the number of students at those schools who do not meet a proficient level of academic performance;

''(II) to do a resource allocation analysis of the needs of the secondary schools served by such agency with respect to staffing, professional development, instruction, and student attendance and behavior;

''(III) to develop a research-based plan which meets the requirements of subparagraph (C) to address—

''(aa) the instructional, curriculum, and capacity needs of the local educational agency's ability to assist secondary schools in increasing achievement; and

''(bb) the instructional needs of its schools;

''(IV) increase attendance and earned, on-time grade promotion; and

''(V) take steps designed to ensure students graduate from secondary school ready for college and the workplace.

''(C) PLAN TO MEET INSTRUCTIONAL NEEDS.—A plan meets the requirements of this subparagraph if the plan requires the local educational agency to consider—

''(i) ensuring alignment between the curriculum used by the school district and State standards;

''(ii) the use of formative assessments;

''(iii) the use of data to improve instruction;

''(iv) the incorporation of staff-focused professional development;

''(v) the hiring, placement, and distribution of highly effective principals;

''(vi) the hiring and distribution of highly effective teachers; and

''(vii) the use of an extended school day and school year.

''(D) PEER REVIEW BEFORE STATE APPROVAL.—The State educational agency may approve a local educational agency's plan under this section only after—

''(i) considering the results of a peer review of the districtwide school improvement plan referred to in paragraph (1)(R); and

''(ii) consulting with State officials responsible for juvenile justice and alternative education placements.

The State educational agency shall provide technical assistance to local educational agencies in the development of such districtwide school improvement plans.''.

ALL STUDENTS CAN ACHIEVE ACT

(Senators Lieberman-Landrieu-Coleman)

This legislation strives to improve the quality and equality of our education system. A good education is the best way to help every child realize their American dream. No Child Left Behind must adhere to the basic principle that each child can learn, and that all children, no matter where they live in the country, are entitled to an education that prepares them to succeed in life.

1. Moving to student achievement growth and effective teachers

Teachers are the most important factor in school and student achievement. This section requires states to measure teacher and principal effectiveness. An effective teacher is one that can demonstrate learning in the classroom. Funds are provided for states to assess effectiveness primarily through objective measures of student growth and achievement (''growth models''), while allowing secondary consideration of other factors including peer and principal evaluations. This legislation requires and funds the development of data systems to track individual student performance over time and to link that performance to teachers, programs and services. States with adequate data systems and plans for measuring effectiveness may use growth models for determining Adequate Yearly Progress (AYP). Schools that demonstrate teacher effectiveness will have greater flexibilities to opt out of the Highly Qualified Teacher requirements. States can also gain flexibilities in their use of federal funds as long as those funds principally still target students with the highest needs.

Components:

Require and fund the development of state longitudinal data systems, with common data elements, to track student growth over time and to link student development to key items including teachers, programs and supplemental services. A portion of the funding is available for consortia of states to develop infrastructure and systems for multi-state use.

States will need to complete data systems within four years. If states already have data systems meeting the necessary criteria or complete their systems in less than four years, their funds may be used for the development, enhancement and/or implementation of teacher and principal effectiveness and growth model programs. Up to one-third of the funds appropriated for data systems may go to regional state consortia.

Provide funds for states to implement teacher and principal effectiveness evaluations primarily through objective measures of student learning growth. Teachers not rated as effective will receive professional development. After five years of continuously being rated as ineffective, these teachers would no longer be permitted to teach in Title I schools.

States with a plan to measure teacher effectiveness may adopt a growth model for accountability. Students will need to be on a trajectory toward proficiency in reading/language arts and math by 2014 and science by 2020. The growth model goals must be based on grade-level proficiency, with a limited exception for students with severe cognitive disabilities. States currently in the growth model pilot may continue in that pilot.

Provide flexibility for schools and districts that actually demonstrate effectiveness by allowing them to opt out of the Highly Qualified Teacher (HQT) provisions. These schools and districts would also be able to benefit from greater flexibility in their use of federal funds, as long as those funds still target students with the highest needs and their states adopt or maintain rigorous standards and assessments. States may apply to be permitted to increase from 50 percent to 100 percent the amount that may be transferred from other Titles into Title I where they are making AYP and states have a successfully peer-reviewed teacher and principal effectiveness program.

Provides grant funds for innovative programs to evaluate professional development activities and to reform teacher compensation, assignment, and tenure policies. These reforms may include better pay to better teachers and incentives for the best teachers to teach in high need schools.

2. Closing the achievement gap

This section takes steps to tackle the continuing achievement gap in the country. It addresses the situation where many students do not get a good education simply because of where they live. It promotes the notion that education anywhere should prepare you for life everywhere. Among other things, this section requires the equitable distribution of non-Federal funds within school districts; provides incentives for school professionals through teamwork in the poorest schools to make the greatest improvements in student performance; provides funds for out-of-district transfers to public schools for students without viable alternatives; provide equitable funding and flexibility under the Charter School Program; and disaggregates graduation rate data requiring the gap in graduation rates to be closed.

Components:

Require that Title I and non-Title I schools have an equitable distribution of non-Federal funds. States will perform a needs assessment to identify disproportionate funding.

Provide a school-based rewards system that recognizes the teamwork of teachers, administrators, counselors, librarians and media specialists, and other staff necessary to improve schools. Schools in the bottom third of income of Title I schools in the state that show exemplary growth in student performance will be eligible. Funding may be used for non-recurring bonuses for teachers, administrators and staff; professional development for teachers, administrators and staff; the addition of temporary personnel to continue school improvement; and reduced teaching schedules to permit limited numbers of teachers to act as mentors at their school and/or at other Title I schools.

Grants for students in schools missing AYP for two or more consecutive years with no available alternative public school options, due to all the other schools failing to make AYP within the school district or a lack of room in other schools, to transfer to a public school outside of their district with the federal funds following the student. Students will need to be from low income families. Receiving schools will be public schools within another nearby district agreeing to accept students. Under this pilot program, the receiving district will receive funding, up to $4000, for tuition, fees and transportation; safe harbor against missing AYP due to recent transfers (transferred students may be excluded from AYP calculation for their first year); and provided funds, up to $1000 per student, for mentoring new students and for parental involvement programs.

Require independent audits of space availability for in-district transfers for school districts containing schools in need of improvement.

Disaggregate graduation rate data and work to close the achievement gap where subgroups are significantly falling behind.

Incorporate evidence-based intervention (also known as response to intervention) models to increase the opportunity for all students to meet challenging academic achievement standards through early identification.

Elementary schools identified for school improvement shall administer developmental screens and assessments to incoming preschool and kindergarten. These screens and assessments will be used to plan for and improve instruction and needed services.

Include principles of universal design for learning to reduce barriers, provide appropriate supports and challenges, and maintain high achievement standards for all students, including those with disabilities and English language learners.

Enhance the Charter Schools Program to permit schools under restructuring to close and reopen themselves as charters even if the addition of such schools would exceed the State's limit on the number of charter schools that may operate in the State, city, county, or region. Preference is given under the program to states that fund charter schools commensurate with their funding of other public schools.

3. Setting and achieving high American standards

This section addresses the need to promote rigorous standards and assessments of student learning to ensure that students succeed in life. Nothing in this section would interfere with local flexibility in how to teach. The National Assessment Governing Board, with local, state and national representatives, is expanded with more business leaders and teachers. They will develop world-class voluntary American learning standards and assessments in reading, math and science while ensuring that the standards and assessments are aligned with life, college and workplace readiness skills.

States may choose to adopt these standards and assessments. In return, they will receive the assessments, including alternative assessments designed specifically for students with disabilities and English language learners, and the infrastructure for administering them. This will free these states to concentrate their education resources in other critical need areas. States may also

build their own assessments based upon the American learning standards or keep their existing rigorous standards and tests. State standards and tests, however, will be compared to the rigorous voluntary American standards.

State leaders from higher education, schools, businesses and government will work, through P–16 Commissions, to align standards, assessments and curriculum from preschool through college to ensure that high school and college graduates have up-to-date skills needed to succeed in life.

Components:

Directs the National Assessment Governing Board, where more business leaders, teachers and other representatives are added, to develop world-class voluntary American learning standards and assessments in reading, math and science in grades 3–12. Alternate assessments will be developed for students with disabilities and English language learners.

States may adopt the American standards and tests, build their tests to the American standards, join standards and assessments from regional consortia, or keep their current systems. The Secretary of Education will report to the Congress and public annually on the variance between the rigor of state assessments and the Commission's assessment.

Require states to ensure that they have the standards, assessments and curriculum aligned to meet life, college and workplace needs, including critical thinking and problem solving skills, from preschool to college, through P–16 Commissions. These Commissions, headed by the Governor or the Governor's designee, will also address ways that economically disadvantaged students, students from each major racial and ethnic group, students with disabilities, and English language learners will increase their success in postsecondary education.

4. Improvements to accountability

This section distinguishes those schools needing intensive interventions, i.e. schools with a majority of students missing AYP, from schools missing AYP for less than half the student population. This division permits more resources to be directed to those schools with pervasive problems while other schools concentrate on improving learning for specific subgroups or within particular areas of need. This change also alleviates a common criticism that a single subgroup, especially students with disabilities, will single-handedly move a school into restructuring.

The vague restructuring option that permitted ''any other major restructuring of the school's governance'' is eliminated while a limit is provided on the percentage of schools required to implement comprehensive restructuring within a single school district in a given year. This legislation addresses modified and alternative achievement standards and related assessments for students with disabilities and provides more time in AYP calculations for students exiting the English language learner subgroup. Schools and districts will be held more accountable for students with disabilities and English language learners by placing upper limits on the minimum number of students that need to make up a subgroup. It also limits the practice of using very wide statistical error ranges when determining success.

Funding school improvements continues to be a critical need. This legislation increases the authorization for the School Improvement Grants program and distributes new funds to states according to the number of schools they have under improvement. This distribution provides incentives for a more accurate portrayal of schools not meeting Adequate Yearly Progress as states with more schools under improvement will receive a larger share of funds.

Components:

Schools with a majority of their students missing AYP will follow an intensive program of attention. Supplemental Education Services (SES) will be available in the second year under improvement, one year earlier than under the present law. Schools in the final year of restructuring, limited to no more than 10 percent of schools, as determined by the state, within a given district in a single year, will have similar options to those existing now except that the option for ''any other major restructuring of the school's governance'' is eliminated.

Schools missing AYP due to one or more subgroups, but less than 50 percent of the student population, will go through a targeted attention program to address the problem areas. This program will include identification of specific actions to address the subgroups in need. SES and school transfers are still offered as options for economically disadvantaged students failing to make AYP.

AYP calculations by states will have limits on student thresholds, N-size no greater than 20–30, and statistical confidence intervals, no greater than 95 percent confidence.

States may develop modified academic achievement standards and use alternate assessments based on those modified grade-level achievement standards for students with persistent academic disabilities for up to 1 percent of students tested (down from current regulations of 2 percent). School districts showing strong evidence of a significantly larger percentage of students than the national average with disabilities within the district or an individual school, perhaps due to a facility focusing on students with disabilities, may apply to the state to use a higher percentage. States may also use alternate assessments based on alternate achievement standards for students with the most significant cognitive disabilities for up to 1 percent of students tested.

Expand, from two to three years, the amount of time English language learners may be included in AYP calculations after they become proficient and exit the subgroup.

Substantially increase funding for the School Improvement Grants program while linking the federal distribution of additional funds to the number of schools under improvement. This provides incentives for a more accurate portrayal of schools not meeting Adequate Yearly Progress as states with more schools under improvement will receive a larger share.

5. Enhancing learning

There are various other ways to support enhancements to student learning and achievement including making it easier to access SES services and providing ways to better inform and involve parents. Innovative approaches to education and successful innovations by charters need to be provided for use in schools. States and districts successful at meeting AYP and at measuring teacher effectiveness should have greater flexibility in transferring funds to the most critical areas they have within No Child Left Behind.

Components:

Districts that permit other non-school-affiliated entities to use school facilities will need to offer, with limitations, space in schools for private providers of SES services.

Permit multi-district cooperatives for administering SES programs and services.

Authorize grants for an Adjunct Teacher Corps program to bring math, science and critical foreign language professionals into public secondary schools to work with teachers and students. These adjunct teachers will provide expertise and assistance to teachers during their first year and in subsequent years will be held accountable under the teacher effectiveness requirements.

Given its importance to American competitiveness, science assessments already required under No Child Left Behind will be added to the accountability system with all students to be proficient by the 2019–2020 school year. Successful models of math and science partnerships expanded and replicated.

Support increased peer-reviewed research and development on innovative approaches to education and ways to improve learning to allow states, districts, schools and students to better meet the goals of No Child Left Behind.

Strengthen parental involvement in and notification by schools including having states designate an office or position responsible for overseeing implementation of parent involvement provisions. Parent Information and Resource Centers will be integrated into increased parental involvement plans.

Amend the McKinney-Vento provisions to protect children in transition, including both children who lack a fixed, regular, and adequate nighttime residence, and children who are in out of home care in the custody of the public child welfare agency.

Ms. LANDRIEU. Mr. President, today I rise to discuss the All Students Can Achieve Act that I am introducing today with Senators LIEBERMAN and COLEMAN.

I was proud to have been a part of developing the No Child Left Behind legislation 5 years ago, which made strides in holding schools accountable and drawing attention to the students who had fallen between the cracks. Senators LIEBERMAN, COLEMAN, and I have come together to build upon the successes of No Child Left Behind, to improve it, and to help our Nation's schools take the next step to help all of our students to achieve and to succeed. Louisiana has made great progress in its standards and accountability, now ranking number one in the Nation. However, of the more than 650,000 students in Louisiana, many are not meeting academic achievement goals. We need to help all of our students meet and exceed achievement expectations.

The All Students Can Achieve Act focuses on the achievements of all students. Recognizing that quality data systems are crucial to measuring the progress of student achievement, we have included a requirement to establish data systems and provided funding authorizations and incentives to support the development of such systems. In order to ensure that all students are achieving, states must create comprehensive data systems that track students' academic progress and other factors that affect their success.

One of the most important factors in school and student achievement is teachers. The quality of teachers should be determined by their effect on students' learning, not just their qualifications. All students should have effective teachers. Thus, these data systems must link student achievement data to teachers, allowing states to

measure teacher effectiveness. In addition, this bill requires the equitable distribution of effective teachers and non-federal funding.

States should be held accountable for student achievement. However, students do not progress at the same pace. Louisiana has recognized this and has incorporated growth labels in its accountability system. Louisiana looks at the level of growth achieved by a school and each school's success in meeting its growth targets. The All Students Can Achieve Act allows states to use growth models in calculating adequate yearly progress. It allows states the flexibility to measure student academic growth, rather than strictly looking at test scores.

We must have high expectations for all students. To ensure that all elementary though secondary school students, regardless of where they live, are prepared for success in college or the workplace, states must set high expectations for all students. Academic standards must be designed to prepare students to succeed and assessments must be effective tools to measure students' progress toward meeting these standards. In addition, we need to continue to properly measure the achievement of all students. Thus, this bill will close current loopholes in the law that allow states to avoid counting students or skew achievement data.

The All Students Can Achieve Act aims to close the achievement gap. States need to focus resources on closing the achievement gap. This includes directing their attention to comprehensive interventions where more than 50% of students are not making Adequate Yearly Progress (AYP) or focused interventions where less than 50% of students are not making AYP. The All Students Can Achieve Act increases the amount of funding authorized for these interventions and focuses support where the need is greatest.

Another important measure of academic achievement is high school graduation rates, which should be tracked and reported for all groups of students. High school graduation rates are an important measure of academic achievement, but they must be calculated consistently and accurately. Like other assessments, these rates should be tracked and reported for all groups of students. Nearly 1.2 million students did not graduate from American high schools in 2006; the lost lifetime earnings in America for that class of dropouts alone totals more than $309 billion.

The All Students Can Achieve Act also increases focus on and support for high need students. For example, we have also included foster children and youth. There are over 800,000 foster children and youth. They face many of the same challenges as homeless children and youth. They go through numerous changes in where they live and go to school. They lack stability and permanency. Thus, we have added them to the McKinney-Vento Act, in order to ensure that they do not fall through the cracks. We hope that by giving them access to the services and protections of McKinney-Vento, their schools will become a safe and permanent place in their lives.

Public education is important to Senators LIEBERMAN, COLEMAN, and me. We want our Nation's children to be prepared to compete and succeed once they graduate. We need to improve our schools and hold them accountable for the achievement of all students. Though there has been much discussion about No Child Left Behind Act, there has been little action toward the reauthorization of this law. We have heard from our constituents about the parts of NCLB that work and the parts that do not work for our students at home. Through a nationwide public process, the Aspen Institute has generated concrete, actionable recommendations that will improve schools for the Nation's children. We wanted to take this opportunity to help begin the process of improving this law. We have come together to take a bipartisan approach to improving the education of all students. We have pulled together the proposals that we think will best serve our students and improve public education in America. We want people to actively discuss our proposal. We hope that people will support what we have done or build upon it.

Mr. COLEMAN. Mr. President, today I rise with my colleagues Senators JOE LIEBERMAN and MARY LANDRIEU to introduce the All Students Can Achieve Act of 2007, ASCA, legislation aimed at improving the current No Child Left Behind law.

As a parent and a legislator, improving our Nation's education system has been a top priority for me. Several years ago, we passed the No Child Left Behind Act to bring accountability to our Nation's learning system. While this bill was a step in the right direction, Minnesota's educators have voiced their concerns over an overly restrictive system that still leaves students behind. The All Students Can Achieve Act will change that by giving flexibility to each State and school without diminishing school accountability.

One of the best features of our legislation is that it will allow States to measure individual student growth over time instead of relying on, and teaching for, one test administered on one day. Measuring a student's growth over time benefits both students and teachers because it recognizes that students have different starting points and acknowledges their individual progress. This approach will free teachers from the burden of teaching for one high-stakes test, while still giving parents the assurances they need that their children are learning in a high quality atmosphere. Minnesota has been trying for some time to move to this ''growth model'' of evaluation and our bill provides the funding to develop and implement the data systems our State would need to move to such a model.

Our bill also addresses something I have been particularly focused on—ensuring that the next generation has the math, science and foreign language skills needed to be competitive in an increasingly globalized economy. As countries like China or India develop increasingly skilled workforces, we must ensure that American students do not fall behind in these critical and highly relevant fields. Our legislation adds a science assessment to the accountability system and gives States the option to bring in qualified science, math, and foreign language practitioners to assist teachers and students.

Another concern I hear in Minnesota is that a school can be, in effect, penalized because a group of new immigrants does not test as well as longtime students. The All Students Can Achieve Act will replace the current all-or-nothing approach with a system that makes a distinction between schools that need comprehensive interventions, versus those that need more focused help. In other words, while current law groups all low performing schools together regardless of how many students miss adequate yearly progress, our legislation offers a more targeted approach, sending additional resources toward schools with pervasive problems, while allowing schools that just have one or more low performing subgroups to focus on closing the achievement gap with that particular group.

A final aspect of our legislation is that it would change the way teachers are evaluated. Currently under No Child Left Behind, good teachers have to jump through a number of bureaucratic hoops to demonstrate on paper that they are ''qualified'' experts in the subjects they teach. I understand this has been a serious burden particularly in rural communities, where very good teachers provide instruction in more than one subject. I also know as a parent, that a teacher's resume may or may not reflect their actual abilities in the classroom. That is why our legislation provides States with new flexibility in the ways they rate and reward excellent teachers.

At its core, No Child Left Behind is about closing the achievement gap. We still have a long way to go, recent data shows that still only 13 percent of African American and 19 percent of Hispanic 4th graders scored at or above the proficient level on the National Assessment of Educational Progress mathematics test, compared to 47 percent of their white peers. By measuring teacher effectiveness, school quality, and student learning, our legislation will help reduce this unacceptable disparity in America today.

Our bipartisan legislation is based on recommendations from a panel of experts, and has been endorsed by some leading educators. However, we know it is just the beginning of a conversation

about how and where to add flexibility to the No Child Left Behind law. As we move forward, I welcome the advice of teachers, parents, and administrators on how best to help all students achieve.

By Mr. HATCH (for himself, Mr. SALAZAR, Mr. SMITH, and Mr. KERRY):

S. 2002. A bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts, and for other purposes; to the Committee on Finance.

Mr. HATCH: Mr. President, I rise today to introduce the REIT Investment Diversification and Empowerment Act of 2007, legislation which would make several important revisions to the current tax law governing real estate investment trusts, or REITs. I am particularly pleased to be joined by my good friend, the distinguished senator from Colorado, Senator SALAZAR, in sponsoring this bipartisan legislation. I am also very happy that Senators SMITH and KERRY are joining us as original cosponsors.

The development of real estate investment trusts is among the true success stories of American business. Moreover, REIT legislation enacted over the past 47 years presents a remarkable example of how Congress can create the legal framework to liberate entrepreneurs, small investors, and hard working men and women across the country to do what they do best—create wealth and, more importantly, build thriving communities.

When REITs were first created in 1960, small investors had almost no role in commercial real estate ventures. At that time, private partnerships and other groups closed to ordinary investors directed real estate investments, typically using debt, not equity, to finance their ventures. That model not only served small investors poorly, it resulted in the misallocation of capital, and contributed to significant market volatility.

Since that time, REITs have permitted small investors to participate in one of our country's greatest generators of wealth, income producing real estate, and REITs have greatly improved real estate markets by promoting transparency, liquidity, and stability. The growth in REITs has been particularly dramatic and beneficial in the past 15 years, as capital markets responded to a series of changes in the tax rules that modernized the original 1960 REIT legislation to adjust it to new realities of the marketplace.

I am proud of my role in sponsoring legislation that included many of these changes that modernized the REIT rules, and I remain committed to making every effort to ensure that the people of Utah and across our Nation continue to benefit from a dynamic and innovative REIT sector.

I have seen first hand what REITs have done for communities across my State. It is very much in Utah's interests, and in our country's interests, to make sure that REITs continue to work effectively and efficiently to carry out the mission which Congress intended.

As my colleagues know, Utah is known as the ''Beehive State'', a testament to the hard work and industriousness of its residents. REITs have proven again and again to be a particularly effective means through which Utahns can utilize those attributes, and aggregate needed capital, to create the thriving real estate sector which is essential to our State's economic well being.

Towards that end, I am pleased to report that REITs now account for well over a $1 billion of property in Utah alone, and afford an opportunity for many investors in my State to have an ownership stake in those properties in their communities. This is not an aberration. I believe that my colleagues will find a similarly impressive amount of REIT investment in their home States as well.

I am also pleased to report, that, in an era when companies must compete successfully on a global scale, our Nation's REITs have grown to be leaders in international real estate markets, and our REIT laws are proving to be a model for other countries around the globe. In fact, much of the bill I am introducing today is necessitated by the growing international presence of our domestic REITs. The international expansion of real estate investment trusts is something that could not have been contemplated when the first REIT laws were enacted decades ago.

The bill we are introducing today is based on S. 4030, which I introduced toward the end of the 109 Congress, and is very similar to H.R. 1147, which was introduced in the House this year. I note that H.R. 1147 enjoys the bipartisan sponsorship of more than two-thirds of the House Ways and Means Committee, and I hope that more of my colleagues on the Finance Committee will join us in supporting this bill.

Further, I am grateful that the distinguished Chairman of the Finance Committee stated at our recent markup of the Senate energy tax package that he was aware of my efforts to pass REIT reform legislation this year, and that he and his staff ''will continue to work with Senator GRASSLEY and you, Senator HATCH, to find a tax bill later this year in which to include this proposal.''

I urge my colleagues to review this bill and lend their support to it. In a small but important way, it will help Americans to better invest for their savings and retirement. I hope we can move this straightforward, bipartisan legislation through as quickly as possible.

I ask unanimous consent that a section-by-section description of the REIT Investment Diversification and Empowerment Act be included in the RECORD.

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

REIT INVESTMENT DIVERSIFICATION AND EMPOWERMENT ACT OF 2007

SECTION-BY-SECTION DESCRIPTION

The REIT Investment Diversification and Empowerment Act of 2007 (RIDEA) includes the following provisions to help modernize the tax rules governing Real Estate Investment Trusts to permit REITs to better meet the challenges of evolving market conditions and opportunities:

Title I: Foreign currency and other qualified activities

Title I addresses one specific issue and also equips the IRS to handle similar interpretative matters in the future without the need of legislation.

As globalization has accelerated in the past decade, REITs, as with other businesses, have followed their customers abroad and have accessed new opportunities in Canada, Mexico, Europe and Asia. The issue that Title I resolves is how foreign currency gains a REIT earns should be treated under the REIT income and asset tests. For example, if a REIT buys a shopping center in England for a million pounds, operates it for ten years and then sells it for a million pounds, that sale produces no gain (assuming that capital expenditures equal the tax depreciation accruing during that period). If during that 10-year period the U.S. dollar has declined compared to the English pound, U.S. tax law says that the appreciation of the pounds when they are converted back to dollars is a separate gain. Until recently, it wasn't clear how that currency gain should be treated under the REIT tax tests.

In May, 2007, the IRS released Revenue Ruling 2007–33 and Notice 2007–42 to clarify that in the overwhelming majority of cases a REIT's foreign currency gains earned while operating its real estate business qualify as ''good income'' under the REIT rules. Title I essentially reaches the same result on a more direct basis and also provides some conforming changes in other parts of the REIT rules.

Although the recent guidance was welcome, it took the IRS about four years to issue it because of questions about the extent of the government's regulatory authority in the area. To prevent similar delays in the future, Title I clearly provides the Secretary of the Treasury with the authority to determine what items of income can be treated either as ''good income'' or disregarded for purposes of the REIT income tests. Under this authority, it is expected that, for example, the IRS would conclude that dividend-like items such as Subpart F deemed dividends and PFIC income would be treated in the same manner as dividends for purposes of the 95 percent gross income test. Further, the IRS could convert many of its rulings it issued to individual taxpayers into public guidance, which could be a more efficient use of its resources.

Title II: Taxable REIT subsidiaries

In 1999, Congress materially changed the REIT rules to allow a REIT to own up to 20 percent of its assets in securities of one or more taxable REIT subsidiaries. The premise is straight-forward: a REIT should be able to engage in activities outside of the scope of renting and financing real estate as permitted by the REIT rules with a single level of tax, but only if the subsidiary is subject to a separate level of tax.

These ''TRS'' rules have worked quite well. REITs have been able to use their real estate expertise in a number of ways not available under the REIT rules so long as they subjected their profits from these activities to a

corporate level of tax, as well as the shareholder level of tax once those profits are distributed to the REIT and its shareholders. Further, the IRS study on TRSs mandated by the 1999 law shows that TRSs formed after the bill was enacted are generating a substantial and increasing amount of tax revenues.

Since both the main asset and income tests are set at 75 percent, the dividing line normally used to demarcate between REIT and non-REIT activities is 25 percent. RIDEA would conform to this dividing line by increasing the limit on TRS size from 20 percent to 25 percent of a REIT's assets, thereby subjecting even more activities conducted by a REIT to two levels of tax.

Title III: Dealer sales

Congress has always wanted REITs to invest in real estate on behalf of their shareholders for the long term. Since the late 1970s, the mechanism to carry out these purposes has been a 100 percent excise tax on a REIT's gain from so-called ''dealer sales''. Because the 100 percent tax is so severe, Congress created a safe harbor under which a REIT can be certain that it is not acting as a dealer (and therefore not subject to the excise tax) if it meets a series of objective tests. This provision would update two of these safe harbor requirements.

The current safe harbor requires a REIT to own property for at least four years. This is simply too long a time in today's marketplace. Further, four years departs too much from the most common time requirement for long-term investment—the one-year holding period for an individual's long-term capital gains. Accordingly, this provision uses a more realistic two-year threshold.

Another test under the dealer sales safe harbor restricts the amount of real estate assets a REIT can sell in any taxable year to 10 percent of its portfolio. Current law measures the 10 percent level by reference to the REIT's tax basis in its assets. H.R. 1147 instead would measure the 10 percent level by using fair market value. To allow a REIT to maximize its sales under the safe harbor (and thereby generating more economic activity), RIDEA would allow a REIT to choose either method for any given year. Presumably, the IRS would develop instructions on Form 1120–REIT allowing a REIT to declare which method it selected when it files its tax return for the year in which the sales occur.

Title IV: Health care REITs

In 1999, Congress allowed a REIT to rent lodging facilities to its taxable REIT subsidiary (TRS) while treating the rental payments from the TRS as income that qualifies under the REIT income tests so long as the rents were in line with rents from unrelated third parties. Simultaneously, it required that the TRS use an independent contractor to manage or operate the lodging facilities. These complex rules were adopted because hotel management companies did not want to assume the leasing risk inherent in lodging facilities but rather wanted to be compensated purely for operating the facilities.

A similar situation has arisen with regard to health care properties such as assisted living facilities. Operators that now lease such facilities would rather have a REIT (through its TRS) assume any leasing risk and instead be hired purely to operate the facilities. Accordingly, this provision would extend the exception made in 1999 for lodging facilities to health care facilities. This change should make it easier for health care facilities to be provided to senior citizens and others in need of such services. As with the current rules for lodging facilities, a TRS would continue to need an independent contractor to manage or operate health care facilities.

Title V: Foreign REITs

Since imitation is the sincerest form of flattery, Congress should be proud that about 20 countries have enacted legislation paralleling the U.S. REIT rules after observing the benefits brought to the United States as a result of a vibrant REIT market. Just this year, Germany, Italy and the United Kingdom enacted REIT laws, and Canada codified its long-standing trust rules to adopt U.S.-like REIT tests. Although the tax code treats stock in a U.S. REIT as a real estate asset, so that it is a qualified asset that generates qualifying income, current law does not afford the same treatment to the stock of non-U.S. REITs.

Because of the many tests designed to focus a REIT on commercial real estate, since the original 1960 REIT law a stock interest in a U.S. REIT is treated as real estate when owned by another U.S. REIT. This provision would extend this treatment to a U.S. REIT's ownership in foreign REITs to the extent that the Treasury Department concludes that the rules or market requirements in another country are comparable to the basic tenets defining a U.S. REIT.

By Ms. COLLINS (for herself, Mr. WARNER, and Mr. VOINOVICH):

S. 2003. A bill to facilitate the part-time reemployment of annuitants, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise to introduce Senate Bill 2003, a measure that will enhance the Federal Government's ability to perform its duties capably and economically as it faces a wave of retirement of highly experienced Federal employees.

When we think about the coming demographic shock of millions of baby boomers reaching retirement age, we usually focus on the cash-flow implications for the Social Security and Medicare programs. But their aging will also have a profound effect on the Federal workforce.

On average, retirements from the Federal workforce have exceeded 50,000 a year for a decade. The numbers will certainly rise in the near future. The Office of Personnel Management calculates that 60 percent of the current Federal workforce, whose civilian component approaches 3 million people, will be eligible to retire during the coming 10 years.

Federal agencies, which already must hire more than 250,000 new employees each year, will need to work hard to replace those retirees, as the private sector and State and local governments will be facing the same problem and competing for qualified replacements.

The baby boom retirement wave will have another impact. It will cause a sudden acceleration in the loss of accumulated skills and mentoring capabilities that experienced workers uniquely possess.

Human-resources research has repeatedly shown that, in general, older workers equal or outperform younger workers in organizational knowledge, ability to work independently, commitment, productivity, flexibility, and mentoring ability.

Making good use of their talents is, therefore, not charity. It is common sense and sound management.

Federal agencies recognize the value of older workers, as witnessed by the fact that nearly 4,500 retirees have been allowed to return to full-time work on a waiver basis.

Agencies could make use of even more Federal annuitants for short-term projects or part-time work, but for a disincentive embedded in current law.

Title 5 of the United States Code currently mandates that annuitants who return to work for the Federal Government must have their salary reduced by the amount of their annuity during the period of reemployment. The bill I introduce today with the welcome cosponsorship of Senators WARNER and VOINOVICH would provide a limited but vital measure of relief to agencies who could benefit from the skills and knowledge of Federal retirees. It provides a limited opportunity for Federal agencies to reemploy retirees without requiring them to take pay cuts based on their annuity payment.

This simple but powerful reform is a priority item for the Federal Office of Personnel Management. As OPM Director Linda Springer has said, ''Modifying the rules to bring talented retirees back to the Government on a part-time basis without penalizing their annuity would allow Federal agencies to rehire recently retired employees to assist with short-term projects, fill critical skill gaps and train the next generation of Federal employees.''

Organizations endorsing the reform contemplated in my bill include the National Active and Retired Federal Employees Association, the Federal Managers Association, the Partnership for Public Service, and the Council for Excellence in Government.

I would note two important points about the bill.

First, it will not materially affect the necessary flow of younger workers into Federal agencies. The bill contemplates reemployment for part-time or project work of not more than 520 hours in the first 6 months following the start of annuity payments, not more than 1,040 hours in any 12-month period, and not more than 6,240 hours total for the annuitant's lifetime. In terms of 8-hour days, those figures are equivalent to 65, 130, and 780 days, respectively.

These limits will give agencies flexibility in assigning retirees to limited-time or limited-scope projects, including mentoring and collaboration, without evading or undermining the waiver requirement for substantial or full-time employment. of annuitants.

I would also note that this bill gives no cause for concern about financial impact. Reemployed annuitants would be performing work that the agencies needed to do in any case, but would not require any additional contributions to pension or savings plans. Meanwhile, their retiree health and life insurance benefits would be costs unaffected by their part-time work. Even without making any allowance for the positive

effects of their organizational knowledge, commitment, productivity, and mentoring potential, their reemployment is likely to produce net savings.

This measure offers benefits for Federal agencies, for Federal retirees who would welcome the opportunity to perform part-time work, and for taxpayers. I urge my colleagues to support it.

By Mrs. CLINTON (for herself, Mr. SANDERS, and Mrs. MURRAY):

S. 2005. A bill to amend the Public Health Service Act to provide education on the health consequences of exposure to secondhand smoke, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, today, I am introducing the Secondhand Smoke Education and Outreach Act of 2007 to provide information to the public about the health consequences of secondhand smoke and support tobacco cessation education.

I want to thank Senators SANDERS and MURRAY for cosponsoring the Secondhand Smoke Education and Outreach Act and recognize them as strong advocates for smoking cessation efforts.

I believe that tobacco use constitutes one of the greatest threats to public health, a conclusion that was also expressed in the 2000 Supreme Court ruling, and I also believe that we have a duty to safeguard our Nation's health against tobacco products.

Every year, an estimated 400,000 smokers die as a result of smoking-related diseases. But nonsmokers also suffer and die from exposure to tobacco smoke.

Last year, the Surgeon General issued the report, The Health Consequences of Involuntary Exposure to Tobacco Smoke, which found that there is no risk-free level of exposure to secondhand smoke. The Surgeon General reported that nearly half of all nonsmoking Americans are still regularly exposed to secondhand smoke, which contains more than 50 carcinogens.

Living with a smoker increases a non-smoker's risk of developing lung cancer by 20 to 30 percent and, according to the California Environmental Protection Agency, exposure to secondhand smoke causes approximately 3,000 lung cancer deaths in the U.S. each year. Secondhand smoke also causes 46,000 cardiac deaths annually in our country.

Studies have shown that exposure to secondhand smoke has both immediate and long-term adverse health consequences on the adult cardiovascular system. Exposure to secondhand smoke for 30 minutes can damage coronary arteries, while sustained exposure can increase the risk of coronary heart disease by 20 to 30 percent.

Although more than 20 States have passed smoke-free laws, including laws that ban smoking in restaurants and bars, Americans of all age groups are involuntarily exposed to tobacco smoke through exposure in workplaces, homes, cars, apartments, and even outdoor public spaces. According to the National Cancer Institute, racial and ethnic minorities in the U.S. have higher rates of occupational exposure to secondhand smoke, with Latinos and Native Americans having the highest rates.

Therefore, it is critical that individuals, especially youth, should not be exposed to secondhand smoke. Further, parents should have access to information about the adverse health consequences so that they can better protect their children and themselves from secondhand smoke.

Education about the dangers of tobacco use and exposure to tobacco smoke is absolutely critical for combating the misleading messages that the tobacco industry propagates through savvy advertising campaigns.

There is strong evidence that tobacco advertisements cynically target advertising to adult and adolescent women. According to an analysis published by the Journal of the American Medical Association in 1994 and a 2001 report by the Surgeon General, the tobacco industry has targeted women with some form of this dangerous promotional strategy for almost a century, beginning in the 1920s. The latest example of this is chronicled in a recent New York Times editorial, entitled ''Don't Fall for Hot Pink Camels'', which discusses R.J. Reynolds's $25 million to $50 million investment in an advertising campaign behind the new female-friendly Camel No. 9.

In addition to targeting women, tobacco advertisements are also designed to appeal to our youth. In the August 2006 racketeering suit brought by the Justice Department against the tobacco industry, Judge Kessler's Final Opinion concluded that: ''. . . Defendants continue to engage in many practices which target youth, and deny that they do so. Despite the provisions of the MSA, Defendants continue to track youth behavior and preferences and market to youth using imagery which appeals to the needs and desires of adolescents.'' This is an unconscionable, but effective, practice. A study published this year in the Archives of Pediatrics and Adolescent Medicine concluded that youth are more likely to start smoking if exposed to retail cigarette advertising and that cigarette promotions also increase the probability of youth becoming regular smokers.

Finally, racial and ethnic minority communities are disproportionately targeted with advertising campaigns for tobacco products, according to the U.S. Department of Health and Human Services. The tobacco industry has contributed to primary and secondary schools, funded universities and colleges, and supported scholarship programs targeting racial and ethnic minorities. Tobacco companies have also placed advertising in community publications and sponsored cultural events in racial and ethnic minority communities.

Despite the public's growing understanding of the health dangers posed by tobacco, too many still succumb to the lure of these deadly products. According to the Centers for Disease Control and Prevention, over 20 percent of adults currently smoke cigarettes in the U.S. Among racial and ethnic communities, approximately 16 percent of Hispanic adults, 13 percent of Asian American adults, 22 percent of Caucasians adults, 22 percent of African American adults, and 32 percent of American Indians and Alaska Natives currently smoke cigarettes.

As for our Nation's youth, a 2005 National Survey on Drug Use and Health reported that nearly 3 million Americans under the age of 18 currently smoke cigarettes. According to the CDC, unless current rates of youth smoking are reversed, more than 6.3 million children under the age of 18 will die from smoking-related diseases.

That is why health care professionals should have the opportunity to receive training in the delivery of evidence-based tobacco dependence and prevention treatment in order to assist smokers in overcoming their addiction and educating all patients about the harm of secondhand smoke.

That is why I, along with Senators SANDERS and MURRAY, am introducing the Secondhand Smoke Education and Outreach Act. I am grateful to have developed this proposal with the American Lung Association, the American Cancer Society, the American Heart Association, and the Campaign for Tobacco Free Kids.

This bill, through education and outreach, will help reverse the public's underestimation of the harm that secondhand smoke can wreck on one's health and will promote smoking cessation efforts across our nation.

This new legislation would establish grants and demonstration projects, awarded by the Secretary of HHS in consultation with the SAMHSA administrator, for educating the public about the health consequences of secondhand smoke in multi-unit dwellings and in public spaces, such as public parks, playgrounds, and national parks. Special consideration would be given to awarding grants to organizations whose participation includes secondary school or college-age individuals, and to organizations that reach racial or ethnic populations that experience a disproportionate share of the cancer burden.

The Secondhand Smoke Education and Outreach Act would also authorize and fund grants for regional or local tobacco cessation education and counseling for health care workers and providers. The training curricula would assist smokers in quitting through smoking cessation counseling, educate smokers and nonsmokers about the

health consequences of secondhand smoke, and help promote self-sustaining networks for the delivery of affordable, accessible, and effective cessation services.

The U.S. spends more on health care than any other industrialized nation and yet we struggle to provide adequate health care for all our citizens. We literally cannot afford the myriad of health problems that we know result from tobacco use: bladder, esophageal, laryngeal, lung, oral, and throat cancers, chronic lung diseases, coronary heart and cardiovascular diseases, as well as reproductive effects and sudden infant death syndrome.

The Secondhand Smoke Education and Outreach Act is an important step in ensuring that our nation's communities have the knowledge they need to keep themselves and their environments healthy, and I look forward to working with my colleagues to enact this legislation during the upcoming reauthorization of the Substance Abuse and Mental Health Services Administration at the Department of Health and Human Services.

I ask unanimous consent that letters of support be printed in the RECORD.

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

AMERICAN HEART ASSOCIATION,
AMERICAN STROKE ASSOCIATION,
August 2, 2007.

Hon. HILLARY RODHAM CLINTON,
Russell Senate Building,
Washington, DC.

DEAR SENATOR CLINTON: The American Heart Association, on behalf of our more than 22 million volunteers and supporters, strongly endorses the Secondhand Smoke Education and Outreach Act of 2007. If enacted, this legislation would provide Federal funds to educate the public about the health consequences of secondhand smoke and create tobacco cessation education and counseling programs.

Secondhand smoke causes death and disease in children and adults who do not choose to smoke. The 2006 Surgeon General's Report The Health Consequences of Involuntary Exposure to Tobacco Smoke found that there is no safe level of secondhand smoke. Secondhand smoke has immediate adverse effects on the cardiovascular system, increasing the risk of coronary heart disease by 25 to 30 percent. An estimated 35,052 nonsmokers die each year as a result of exposure to environmental tobacco smoke.

Secondhand smoke has a particularly adverse effect on children's health. An estimated 150,000–300,000 children younger than 18 months of age have respiratory tract infections due to exposure to secondhand smoke. The educational campaigns and demonstration projects about the health effects of secondhand smoke in multi-unit housing and public spaces that would be funded by the Secondhand Smoke Education and Outreach Act of 2007 would give particular emphasis to programs that would include secondary school and college-age individuals.

We applaud you for your leadership and look forward to working with you to advance this vitally important legislation.

Sincerely,

SUE A. NELSON,
Vice President, Federal Advocacy.

CAMPAIGN FOR TOBACCO-FREE KIDS,
Washington, DC, August 2, 2007.

Hon. HILLARY R. CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: The Campaign for Tobacco Free Kids strongly supports your legislation, ''Secondhand Smoke Education and Outreach Act.'' As stated by former Surgeon General Richard Carmona, ''The debate is over. The science is clear. Secondhand smoke is not a mere annoyance but a serious health hazard.'' This legislation will provide timely and accessible educational programs concerning secondhand smoke along with funds to train health professionals to help more Americans quit smoking.

The ''Secondhand Smoke Education and Outreach Act'' will fund much needed educational campaigns about the dangers of secondhand smoke in the workplace and in multi-unit housing. These campaigns will promote greater awareness on the health consequences of smoking and secondhand smoke and will encourage more communities to go smokefree.

The mission of the Campaign for Tobacco Free Kids is to reduce the harm associated with smoking and exposure to tobacco smoke, preventing children from using tobacco, and helping adults to end their tobacco use. Your initiative will help further these goals by promoting awareness of the harms of secondhand smoke and ways to prevent exposure to it and by supporting people's efforts to quit smoking and improve their quality of life.

This initiative is consistent with your demonstrated commitment to helping protect our nation's children from the harms associated with tobacco use. Your support of re-authorization of the State Children's Health Insurance Program which is funded by an increase in the excise tax on all tobacco products (a proven measure to deter kids from smoking) and your recent vote in the Senate Health Education Labor and Pensions Committee to give the Food and Drug Administration the authority to regulate tobacco products and advertising clearly demonstrates your strong support for reducing the harms of tobacco in this country.

The Campaign for Tobacco Free Kids applauds your leadership on tobacco prevention efforts and we look forward to working with you to move your Secondhand Smoke Education and Outreach Act forward.

Sincerely,

WILLIAM V. CORR,
Executive Director.

AMERICAN CANCER SOCIETY,
CANCER ACTION NETWORK,
Washington, DC, August 1, 2007.

Hon. HILLARY CLINTON,
U. S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: The American Cancer Society Cancer Action Network℠ (ACS CAN) is pleased to endorse the Secondhand Smoke Education and Outreach Act of 2007. This legislation would make federal funds available for public education campaigns on the dangers of secondhand smoke and the consequences of secondhand smoke in public spaces, as well as fund grants for tobacco cessation education and counseling.

There are devastating health consequences directly attributable to secondhand smoke: Secondhand smoke causes between 35,000 and 40,000 deaths from heart disease every year; 3,000 otherwise healthy nonsmokers will die of lung cancer annually because of their exposure to secondhand smoke; The total annual costs of secondhand smoke exposure are estimated to be at least $5 billion in direct medical costs and at least $5 billion in indirect costs.

The 2006 Surgeon General's Report on The Health Consequences of Involuntary Exposure to Tobacco Smoke documents that: There is no risk-free level of exposure to secondhand smoke; Children exposed to secondhand smoke are at an increased risk for sudden infant death syndrome (SIDS), low birthweights, acute respiratory infections, ear problems and more severe asthma; Parents who smoke cause respiratory symptoms and slow lung growth in their children; Exposure to secondhand smoke leads to an increased risk for lung cancer and cardiovascular disease and death; Nonsmokers living with a smoker have a 20 to 30 percent increased risk of lung cancer and a 25 to 30 percent increased risk for coronary heart disease.

We look forward to working with you to secure passage of this important legislation by the 110th Congress.

Sincerely,

Daniel E. Smith,
President

WENDY K. SELIG,
Vice President, Legislative Affairs.

AUGUST 1, 2007.

Hon. HILLARY R. CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: The American Lung Association strongly supports your Secondhand Smoke Education and Outreach Act. Despite the irrefutable scientific evidence that secondhand smoke kills, people of every age are exposed to tobacco smoke in the workplace, at home and in other public spaces. This legislation will provide accessible educational programs concerning secondhand smoke and smoking cessation in order to effectively reduce secondhand smoke exposure and promote lung health among Americans.

In June of 2006, the U.S. Surgeon General issued The Health Consequences of Involuntary Exposure to Tobacco Smoke, which concluded that there is no risk-free level of exposure to secondhand smoke. Even short exposure to secondhand smoke can decrease coronary flow and increase the risk of a heart attack in adults; additionally, in children, the risk of developing acute respiratory infections or asthma is elevated. However, despite this conclusive scientific evidence, more education is needed to communicate the dangers of secondhand smoke.

The Secondhand Smoke Education and Outreach Act will fund much needed educational campaigns about the dangers of secondhand smoke in the workplace and in multi-unit housing. These campaigns will promote awareness on the health consequences of smoking and secondhand smoke and promote lung health among the public. The legislation will also authorize grants to health care workers and providers for tobacco cessation education.

The mission of the American Lung Association is to prevent lung disease and promote lung health. The Secondhand Smoke Education and Outreach Act will do both by promoting secondhand smoke awareness and supporting people's efforts to quit smoking and enhance their lives.

The American Lung Association looks forward to working with you to see the Secondhand Smoke Education and Outreach Act enacted into law.

Sincerely,

BERNADETTE A. TOOMEY,
President and CEO.

THE CITY OF WHITE PLAINS,
YOUTH BUREAU,
White Plains, New York, July 31, 2007.

Senator HILLARY RODHAM CLINTON,
Russell Building Suite 476, U.S. Senate, Washington, DC.

Re: Second hand Smoke Education

DEAR SENATOR CLINTON: The White Plains Youth Bureau is writing this letter in support of the Bill you are introducing to amend the Public Health Service Act to provide education on the health consequences of exposure to second hand smoke, and for other purposes.

Studies conducted by various health organizations, as well as the Surgeon General have documented that there are more than 60 million young children still being involuntarily exposed to second hand smoke. Although the passage of laws such as the Clean Indoor Air Act, and other laws passed by individual states, have made significant reductions to smoking rates, involuntary exposure to second hand smoke continues to effect the health of our most vulnerable population—our children. Exposure to second hand smoke in outdoor public spaces as well as in multi unit housing complexes continues to be a significant health risk factor.

This bill is designed to address these very problems by providing support for increased education about the dangers of second hand smoke exposure. Research has proven that continuous education does make a difference. Additionally, the support for increased training of health professionals will help educate parents and other adults about the need to protect vulnerable segment of our population from involuntary exposure to second hand smoke.

We commend you and your staff for taking the initiative in putting together this important Bill that will definitely help to improve the health outcomes for many of our young people as well as continue the battle against the unscrupulous practices of the tobacco industry.

Sincerely Yours,

LINDA PUOPLO,
Deputy Director.

By Ms. LANDRIEU:

S. 2008. A bill to reform the single family housing loan guarantee program under the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

Ms. LANDRIEU. Mr. President, I rise today to introduce the Home Ownership Made Easier Act, or the HOME Act. This bill will revitalize our Nation's rural communities by making it easier to become a homeowner and to provide opportunities to refinance high interest and subprime loans.

Our country has provided many excellent opportunities over the years to individuals living in rural areas to become a homeowner. One of these programs is what is commonly referred to as the 502 program administered by the U.S. Department of Agriculture. This program administers guaranteed loans to low-income families that are backed by the U.S. Government. Families must be able to show that they are without adequate housing and not exceed certain income limits. Currently, these loans last 30 years and do not require a down payment, however the applicant must be able to afford mortgage payments, including taxes, and insurance.

I applaud the success of the 502 program. In Louisiana alone, the program has already administered 1,212 loans for 2007 and nationwide, the program has administered 27,643 loans. While the program does cost the taxpayer approximately $42 million a year, it administers over $3 billion in loans a year. Let me repeat that again, for $42 million a year, our Government is able to provide $3 billion in loans a year to low-income families to become homeowners. The risk extremely low. In 2006, the 502 program has a foreclosure rate of 1.36 percent. Again, I applaud the success of our Government to provide this much-needed help to rural Americans.

Some might ask why should the Federal Government help low-income families become homeowners? The answer is simple. Homeownership provides financial advantages to owners and to their communities. Individuals who own homes have an investment, of those that own homes, on average, one-half of the equity in their homes is one-half of their net worth. Homeowners enjoy tax benefits and they also enjoy financial stability if they are locked into a permanent interest rate. Communities also benefit, those that have a high percentage of homeownership see increased involvement with the community and with the local schools.

Also, maybe most importantly, homeownership by low-income households is linked to a child's educational advancement and future success.

My HOME Act will build upon the success of the 502 program and update the program to reflect current conditions. In some instances, this law hasn't been updated in nearly 30 years.

The HOME Act will do five things. First, it will increase the qualifying income limits for families and set out a three-tiered level of income standard instead of the current eight tiered standard. The first tier will be for families that have one to four individuals, the second tier is established for families of 5 to 8 persons and the third tier is for families larger than eight.

The second change will affect the qualifying population limit. Currently, the population limit is tied to communities of 10,000 or less in an areas contained within a standard metropolitan statistical area, MSA, and communities less than 20,000 if they are not contained within a MSA. My HOME Act will expand the qualifying population limit to encompass rural communities of 40,000 or less.

HOME Act legislation will maintain the guaranteed fee that an applicant is required to pay at 2 percent, instead of raising the fee to 3 percent. This is to keep costs low for the borrower. It will also reduce the redtape involved by allowing an applicant that qualifies for a 502 loan to receive that loan regardless of whether or not the applicant can qualify for another Federal Government housing loan.

Finally, my bill will provide opportunities for individuals inside and outside the 502 program to refinance their loans. These opportunities include refinancing to pay for a first or second purchase mortgage, for repairs to structural deficiencies, to pay for closing costs, and allow a borrower to consolidate debts up to the greater of $10,000 or 10 percent.

The 502 program is an excellent program that has helped many individuals and families afford to purchase a clean, affordable home that increases their quality of life. I want to expand this program and allow more opportunities for low-income rural Americans to become homeowners. This is a good bill and I look forward to working with my colleagues to make this bill a reality.

By Mr. BROWN (for himself and Mr. VOINOVICH):

S. 2013. A bill to initially apply the required use of tamper-resistant prescription pads under the Medicaid Program to schedule II narcotic drugs and to delay the application of the requirement to other prescription drugs for 18 months; to the Committee on Finance.

Mr. BROWN. Mr. President, I am introducing legislation today that would delay for 18 months the requirement that doctors write Medicaid prescriptions on tamper-resistant paper. I am pleased that my colleague and friend, Mr. VOINOVICH, has agreed to cosponsor this important bill.

Let me place the bill in context. The Iraq supplemental signed into law 2 months ago requires all Medicaid prescriptions to be written on tamper-resistant paper effective October 1, 2007.

It is important to understand what tamper-resistant prescribing does and does not do.

First, what it does not do.

Tamper-resistant prescribing does not help prevent medication errors, which occur when a provider writes the wrong prescription, a pharmacist dispenses the wrong medicine, or a patient takes the wrong dose of a medicine.

Tamper-resistant prescribing does, however, help prevent fraud.

Tamper-resistant paper is intended to prevent the fraudulent modification of prescriptions, particularly prescriptions for opiates and other narcotics.

It is a worthy goal, and one we should pursue.

But the October 1, 2007, implementation date simply isn't realistic.

More time is needed to inform physicians and pharmacists about these new requirements and make sure that physicians across America have tamper-resistant pads in their offices.

If we don't delay the requirement, come October 1 pharmacists throughout our Nation will face an impossible situation.

The pharmacist can turn the beneficiary away since they are not going to be paid if they seek payment for a Medicaid prescription that is not written on tamper proof paper. Or they can go ahead and fill it and hope they don't get sued.

And what about the Medicaid beneficiary who needs to fill a prescription?

What about the financial integrity of Medicaid itself?

Let us say a Medicaid beneficiary needs insulin.

How much work does she miss and what is the additional cost to Medicaid if, in order to fill her prescription, this beneficiary must: 1. go to her doctor for a prescription; 2. go to her local pharmacy, which is forced to turn her away; 3. go to the emergency room in the hopes she can get a temporary supply; 4. go back to her doctor for a tamper-resistant prescription; and 5. go back to her pharmacy for her medicine?

If you give the health care sector enough time to prepare for the tamper-proof requirement, that requirement will improve the public health and reduce Medicaid costs.

Implemented prematurely, and the equation flips, Medicaid wastes dollars on needless doctor and hospital visits, and Medicaid beneficiaries suffer the consequences of unfilled prescriptions.

Providing more time to ensure smooth implementation of the tamper-resistant prescribing requirement is the smart thing to do and the right thing to do. It is the right thing to do for Medicaid beneficiaries, for community pharmacies, and for U.S. taxpayers.

On behalf of all of these constituencies, we should send this legislation to the President's desk as soon as possible.

By Mr. STEVENS (for himself, Mr. INOUYE, Ms. CANTWELL, Ms. SNOWE, Ms. MURKOWSKI, Mr. SUNUNU, Mr. COCHRAN, Mr. KERRY, Ms. COLLINS, Mrs. MURRAY, and Mrs. BOXER):

S.J. Res. 17. A joint resolution directing the United States to initiate international discussions and take necessary steps with other Nations to negotiate an agreement for managing migratory and transboundary fish stocks in the Arctic Ocean; to the Committee on Foreign Relations.

Mr. STEVENS. Mr. President, I am pleased to introduce a Senate joint resolution directing the United States to initiate efforts with other Nations to negotiate international agreements for managing migratory and transboundary fish stocks in the Arctic Ocean. As we have seen in far too many cases around the world, fish stocks can easily become depleted when the international community fails to develop effective, science based agreements for conserving and managing shared fish stocks. The goal of this resolution is to ensure that we do not repeat that same mistake with any commercial fisheries that develop in the Arctic Ocean.

In many ways, the Arctic Ocean is the final frontier into which the world's commercial fisheries may expand. Currently, industrial fishing in this ocean has been limited by the distribution of fish habitat and the short duration of favorable fishing conditions, but that may change in the coming years. Scientific evidence suggests that as the world's climate changes, ocean temperature regimes may shift and cause many fish stocks to colonize new habitats in the Arctic Ocean.

Similarly, fishing vessels may gain greater access to previously inhospitable areas of the Arctic.

Taken together, these potential shifts may create favorable conditions for expanding commercial fisheries in the United States, Russia, Canada, Norway, Denmark, and other nations that have access to the remote arctic waters.

Having seen the fish stock declines that come when multiple nations target the same stocks without effective coordinated management, it is vital that these nations work together to prevent this outcome.

Given the benefit of foresight and our ability to anticipate the need for international fisheries management systems in the Arctic, we must now begin the process of creating such a system before commercial fisheries become firmly established there.

The North Pacific Regional Fisheries Management Council, the body that manages U.S. fisheries in the North Pacific, recognizes the need to develop an effective management plan for Arctic Ocean fishing before significant fishing activity occurs. In June 2007, the council approved a proposal to close all Federal waters in the Arctic Ocean to fishing until they develop and implement a fisheries management plan. This action should serve as a signal to the rest of the United States and to all nations interested in Arctic Ocean fishing that sound conservation and management plans should be our top priority before moving forward to develop commercial fisheries there.

This Senate joint resolution builds upon the efforts of the North Pacific Regional Fisheries Management Council and takes it a step further by calling on the United States to lead international efforts to develop international fisheries management agreements for the Arctic Ocean. Such agreements should promote management systems for member nations that emphasize science-based limits on harvests, timely and accurate reporting of catch-and-trade data, equitable allocation and access systems, and effective monitoring and enforcement. These fisheries management principles are consistent with the Magnuson-Stevens Fishery Conservation and Management Amendments Act that was enacted last January and the United Nations Fish Stocks Agreement. Such principles are vital for preventing proliferation of illegal, unreported, and unregulated—what we call IUU—fishing which unfortunately continues to plague and undermine other international fisheries.

This resolution contains other important provisions as well. While negotiating any agreements for the arctic fisheries, the United States should consult with the North Pacific Regional Fishery Management Council and Alaska Native subsistence communities in the Arctic. And, of course, consistent with the President's October 2006 Memorandum on Promoting Sustainable Fisheries and Ending Destructive Fishing Practices, this resolution calls on the United States to support international efforts to halt the expansion of commercial fisheries on the high seas of the Arctic Ocean until effective international agreements are enforced.

On behalf of Alaska's subsistence and commercial fishing communities and the organizations that work to sustain our fisheries, I thank the many cosponsors of this resolution for sharing our great concern for sound fisheries management.

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

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

S. JOINT RES. 17

Whereas the decline of several commercially valuable fish stocks throughout the world's oceans highlights the need for fishing nations to conserve fish stocks and develop management systems that promote fisheries sustainability;

Whereas fish stocks are migratory throughout their habitats, and changing ocean conditions can restructure marine habitats and redistribute the species dependent on those habitats;

Whereas changing global climate regimes may increase ocean water temperature, creating suitable new habitats in areas previously too cold to support certain fish stocks, such as the Arctic Ocean;

Whereas habitat expansion and migration of fish stocks into the Arctic Ocean and the potential for vessel docking and navigation in the Arctic Ocean could create conditions favorable for establishing and expanding commercial fisheries in the future;

Whereas commercial fishing has occurred in several regions of the Arctic Ocean, including the Barents Sea, Kara Sea, Beaufort Sea, Chukchi Sea, and Greenland Sea, although fisheries scientists have only limited data on current and projected future fish stock abundance and distribution patterns throughout the Arctic Ocean;

Whereas remote indigenous communities in all nations that border the Arctic Ocean engage in limited, small scale subsistence fishing and must maintain access to and sustainability of this fishing in order to survive;

Whereas many of these communities depend on a variety of other marine life for social, cultural and subsistence purposes, including marine mammals and seabirds that may be adversely affected by climate change, and emerging fisheries in the Arctic should take into account the social, economic, cultural and subsistence needs of these small coastal communities;

Whereas managing for fisheries sustainability requires that all commercial fishing be conducted in accordance with science-based limits on harvest, timely and accurate reporting of catch data, equitable allocation and access systems, and effective monitoring and enforcement systems;

Whereas migratory fish stocks traverse international boundaries between the exclusive economic zones of fishing nations and the high seas, and ensuring sustainability of fisheries targeting these stocks requires management systems based on international coordination and cooperation;

Whereas international fishing treaties and agreements provide a framework for establishing rules to guide sustainable fishing activities among those nations that are parties to the agreement, and regional fisheries management organizations provide international fora for implementing these agreements and facilitating international cooperation and collaboration;

Whereas under its authorities in the Magnuson-Stevens Fishery Conservation and Management Act, the North Pacific Fishery Management Council has proposed that the United States close all Federal waters in the Chukchi and Beaufort Seas to commercial fishing until a fisheries management plan is fully developed; and

Whereas future commercial fishing and fisheries management activities in the Arctic Ocean should be developed through a coordinated international framework, as provided by international treaties or regional fisheries management organizations, and this framework should be implemented before significant commercial fishing activity expands to the high seas: Now, therefore, be it

Resolved, by the Senate and the House of Representatives in Congress assembled That—

(1) the United States should initiate international discussions and take necessary steps with other Arctic nations to negotiate an agreement or agreements for managing migratory, transboundary, and straddling fish stocks in the Arctic Ocean and establishing a new international fisheries management organization or organizations for the region;

(2) the agreement or agreements negotiated pursuant to paragraph (1) should conform to the requirements of the United Nations Fish Stocks Agreement and contain mechanisms, inter alia, for establishing catch and bycatch limits, harvest allocations, observers, monitoring, data collection and reporting, enforcement, and other elements necessary for sustaining future Arctic fish stocks;

(3) as international fisheries agreements are negotiated and implemented, the United States should consult with the North Pacific Regional Fishery Management Council and Alaska Native subsistence communities of the Arctic; and

(4) until the agreement or agreements negotiated pursuant to paragraph (1) come into force and measures consistent with the United Nations Fish Stocks Agreement are in effect, the United States should support international efforts to halt the expansion of commercial fishing activities in the high seas of the Arctic Ocean.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 299—RECOGNIZING THE RELIGIOUS AND HISTORICAL SIGNIFICANCE OF THE FESTIVAL OF DIWALI

Mr. MENENDEZ (for himself and Mr. CORNYN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 299

Whereas Diwali, a festival of great significance to Indian Americans and South Asian Americans, is celebrated annually by Hindus, Sikhs, and Jains throughout the United States;

Whereas there are nearly 2,000,000 Hindus in the United States, approximately 1,250,000 of which are of Indian and South Asian origin;

Whereas the word ''Diwali'' is a shortened version of the Sanskrit term ''Deepavali'', which means ''a row of lamps'';

Whereas Diwali is a festival of lights, during which celebrants light small oil lamps, place them around the home, and pray for health, knowledge, and peace;

Whereas celebrants of Diwali believe that the rows of lamps symbolize the light within the individual that rids the soul of the darkness of ignorance;

Whereas Diwali falls on the last day of the last month in the lunar calendar and is celebrated as a day of thanksgiving and the beginning of the new year for many Hindus;

Whereas for Hindus, Diwali is a celebration of the victory of good over evil;

Whereas for Sikhs, Diwali is feted as the day that the sixth founding Sikh Guru, or revered teacher, Guru Hargobind, was released from captivity by the Mughal Emperor Jehangir; and

Whereas for Jains, Diwali marks the anniversary of the attainment of moksha, or liberation, by Mahavira, the last of the Tirthankaras (the great teachers of Jain dharma), at the end of his life in 527 B.C.: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the religious and historical significance of the festival of Diwali; and

(2) requests the President to issue a proclamation recognizing Diwali.

SENATE RESOLUTION 300—EXPRESSING THE SENSE OF THE SENATE THAT THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA (FYROM) SHOULD STOP THE UTILIZATION OF MATERIALS THAT VIOLATE PROVISIONS OF THE UNITED NATIONS-BROKERED INTERIM AGREEMENT BETWEEN FYROM AND GREECE REGARDING ''HOSTILE ACTIVITIES OR PROPAGANDA'' AND SHOULD WORK WITH THE UNITED NATIONS AND GREECE TO ACHIEVE LONGSTANDING UNITED STATES AND UNITED NATIONS POLICY GOALS OF FINDING A MUTUALLY-ACCEPTABLE OFFICIAL NAME FOR FYROM

Mr. MENENDEZ (for himself, Ms. SNOWE and Mr. OBAMA) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 300

Whereas, on April 8, 1993, the United Nations General Assembly admitted as a member the Former Yugoslav Republic of Macedonia (FYROM), under the name the ''Former Yugoslav Republic of Macedonia'';

Whereas United Nations Security Council Resolution 817 (1993) states that the dispute over the name must be resolved to maintain peaceful relations between Greece and FYROM;

Whereas, on September 13, 1995, Greece and FYROM signed a United Nations-brokered Interim Accord that, among other things, commits them to not ''support claims to any part of the territory of the other party or claims for a change of their existing frontiers'';

Whereas a pre-eminent goal of the United Nations Interim Accord was to stop FYROM from utilizing, since its admittance to the United Nations in 1993, what the Accord calls ''propaganda'', including in school textbooks;

Whereas a television report in recent years showed students in a state-run school in FYROM still being taught that parts of Greece, including Greek Macedonia, are rightfully part of FYROM;

Whereas some textbooks, including the Military Academy textbook published in 2004 by the Military Academy ''General Mihailo Apostolski'' in the FYROM capital city, contain maps showing that a ''Greater Macedonia'' extends many miles south into Greece to Mount Olympus and miles east to Mount Pirin in Bulgaria;

Whereas, in direct contradiction of the spirit of the United Nations Interim Accord's section ''A'', entitled ''Friendly Relations and Confidence Building Measures'', which attempts to eliminate challenges regarding ''historic and cultural patrimony'', the Government of FYROM recently renamed the capital city's international airport ''Alexander the Great Airport'';

Whereas the aforementioned acts constitute a breach of FYROM's international obligations deriving from the spirit of the United Nations Interim Accord, which provide that FYROM should abstain from any form of ''propaganda'' against Greece's historical or cultural heritage;

Whereas such acts are not compatible with Article 10 of the United Nations Interim Accord, which calls for ''improving understanding and good neighbourly relations'', as well as with European standards and values endorsed by European Union member-states; and

Whereas this information, like that exposed in the media report and elsewhere, being used contrary to the United Nations Interim Accord instills hostility and a rationale for irredentism in portions of the population of FYROM toward Greece and the history of Greece: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Former Yugoslav Republic of Macedonia (FYROM) to observe its obligations under Article 7 of the 1995 United Nations-brokered Interim Accord, which directs the parties to ''promptly take effective measures to prohibit hostile activities or propaganda by state-controlled agencies and to discourage acts by private entities likely to incite violence, hatred or hostility'' and review the contents of textbooks, maps, and teaching aids to ensure that such tools are stating accurate information; and

(2) urges FYROM to work with Greece within the framework of the United Nations process to achieve longstanding United States and United Nations policy goals by reaching a mutually-acceptable official name for FYROM.

SENATE RESOLUTION 301—RECOGNIZING THE 50TH ANNIVERSARY OF THE DESEGREGATION OF LITTLE ROCK CENTRAL HIGH SCHOOL, ONE OF THE MOST SIGNIFICANT EVENTS IN THE AMERICAN CIVIL RIGHTS MOVEMENT

Mrs. LINCOLN (for herself and Mr. PRYOR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 301

Whereas the landmark 1954 Supreme Court decision in Brown v. Board of Education of Topeka established that racial segregation in public schools violated the Constitution of the United States;

Whereas, in September 1957, 9 African-American students (Minnijean Brown, Elizabeth Eckford, Ernest Green, Thelma Mothershed, Melba Pattillo, Gloria Ray, Terrence Roberts, Jefferson Thomas, and

Carlotta Walls), known as the ''Little Rock Nine'', became the first African-American students at Little Rock Central High School;

Whereas the Little Rock Nine displayed tremendous strength, determination, and courage despite enduring verbal and physical abuse;

Whereas Little Rock Central High School was listed in the National Register of Historic Places on August 19, 1977, and was designated a National Historic Landmark on May 20, 1982;

Whereas, on November 6, 1998, Congress established the Little Rock Central High School National Historic Site in the State of Arkansas (Public Law 105–356), which is administered in partnership with the National Park Service, the Little Rock Public School System, the City of Little Rock, and other entities;

Whereas, in 2007, Little Rock Central High School and the Little Rock Central High School Integration 50th Anniversary Commission will host events to commemorate the 50th anniversary of the Little Rock Nine entering Little Rock Central High School;

Whereas these events will include the opening of a new visitors' center and museum, which will feature exhibits on the Little Rock Nine and the road to desegregation; and

Whereas Little Rock Central High School continues to be regarded as one of the best public high schools in the United States, with students scoring above the national average on the ACT, PSAT, and PLAN tests and receiving an average of $3,000,000 in academic scholarships each year: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the extraordinary bravery and courage of the Little Rock Nine, who helped expand opportunity and equality in public education in Arkansas and throughout the United States by becoming the first African-American students at Little Rock Central High School;

(2) commemorates the 50th anniversary of the desegregation of Little Rock Central High School, one of the most significant events in the American civil rights movement;

(3) encourages all people of the United States to reflect on the importance of this event; and

(4) acknowledges that continued efforts and resources should be directed to enable all children to achieve equal opportunity in education in the United States.

SENATE RESOLUTION 302—CENSURING THE PRESIDENT AND VICE PRESIDENT

Mr. FEINGOLD (for himself, Mr. HARKIN, and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 302

Resolved,

SECTION 1. BASIS FOR CENSURE.

(a) IRAQ'S ALLEGED NUCLEAR PROGRAM.—The Senate finds the following:

(1) In December 2001, the intelligence community assessed that Iraq did not appear to have reconstituted its nuclear weapons program.

(2) The October 2002 National Intelligence Estimate assessed that Iraq did not have a nuclear weapon or sufficient material to make one, and that without sufficient fissile material acquired from abroad, Iraq probably would not be able to make a weapon until 2007 or 2009.

(3) On October 6, 2002, the Central Intelligence Agency advised the White House to remove references to Iraq seeking uranium from Africa from a Presidential speech, citing weak evidence.

(4) In November 2002, the United States Government told the International Atomic Energy Association that ''reporting on Iraqi attempts to procure uranium from Africa are fragmentary at best.''.

(5) On March 7, 2003, the Director General of the International Atomic Energy Association reported to the United Nations Security Council that inspectors had found ''no evidence or plausible indication of the revival of a nuclear weapons program in Iraq.''.

(6) On March 11, 2003, the Central Intelligence Agency stated that it did not dispute the International Atomic Energy Association conclusions that the documents on Iraq's agreement to buy uranium from Niger were not authentic.

(7) President George W. Bush and Vice President Richard B. Cheney overstated the nature and urgency of the threat posed by Saddam Hussein by making repeated, unqualified assertions about an Iraqi nuclear program that were not supported by available intelligence, including—

(A) on March 22, 2002, President George W. Bush stated that ''[Saddam] is a dangerous man who possesses the world's most dangerous weapons.'';

(B) on August 26, 2002, Vice President Richard B. Cheney stated that ''[m]any of us are convinced that Saddam will acquire nuclear weapons fairly soon.'';

(C) on September 8, 2002, Vice President Richard B. Cheney stated that ''[w]e do know, with absolute certainty, that he is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon.'';

(D) on September 20, 2002, Vice President Richard B. Cheney stated that ''we now have irrefutable evidence that he has once again set up and reconstituted his program, to take uranium, to enrich it to sufficiently high grade, so that it will function as the base material as a nuclear weapon.'';

(E) on October 7, 2002, President George W. Bush stated that ''[f]acing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud.'';

(F) on December 31, 2002, President George W. Bush stated that ''[w]e don't know whether or not [Saddam] has a nuclear weapon.'';

(G) on January 28, 2003, President George W. Bush stated that ''[t]he British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.''; and

(H) on March 16, 2003, Vice President Richard B. Cheney stated that ''[w]e believe [Hussein] has, in fact, reconstituted nuclear weapons.''.

(b) SADDAM'S ALLEGED INTENT TO USE WEAPONS OF MASS DESTRUCTION.—The Senate finds the following:

(1) The October 2002 National Intelligence Estimate assessed that ''Baghdad for now appears to be drawing a line short of conducting terrorist attacks with conventional or CBW against the United States, fearing that exposure of Iraqi involvement would provide Washington a stronger cause for making war'' and that ''Iraq probably would attempt clandestine attacks against the United States Homeland if Baghdad feared an attack that threatened the survival of the regime were imminent or unavoidable, or possibly for revenge.''.

(2) President George W. Bush and Vice President Richard B. Cheney made misleading statements, that were not supported by the available intelligence, suggesting that Saddam Hussein sought weapons of mass destruction for the purpose of an unprovoked, offensive attack, including—

(A) on August 26, 2002, Vice President Richard B. Cheney stated that ''. . . there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt he is amassing them to use against our friends, against our allies, and against us.'';

(B) on August 26, 2002, Vice President Richard B. Cheney stated that ''[t]hese are not weapons for the purpose of defending Iraq; these are offensive weapons for the purpose of inflicting death on a massive scale, developed so that Saddam can hold the threat over the head of anyone he chooses, in his own region or beyond.''; and

(C) on October 2, 2002, President George W. Bush stated that ''On its present course, the Iraqi regime is a threat of unique urgency. We know the treacherous history of the regime. It has waged a war against its neighbors, it has sponsored and sheltered terrorists, it has developed weapons of mass death, it has used them against innocent men, women and children. We know the designs of the Iraqi regime.''.

(c) SADDAM'S ALLEGED LINKS TO AL QAEDA AND 9/11.—The Senate finds the following:

(1) Before the war, the Central Intelligence Agency assessed that ''Saddam has viewed Islamic extremists operating inside Iraq as a threat, and his regime since its inception has arrested and executed members of both Shia and Sunni groups to disrupt their organizations and limit their influence,'' that ''Saddam Hussain and Usama bin Laden are far from being natural partners,'' and that assessments about Iraqi links to al Qaeda rest on ''a body of fragmented, conflicting reporting from sources of varying reliability.''.

(2) President George W. Bush and Vice President Richard B. Cheney overstated the threat posed by Saddam Hussein by making unqualified assertions that were not supported by available intelligence linking Saddam Hussein to the September 11, 2001, terrorist attacks and stating that Saddam Hussein and al Qaeda had a relationship and that Saddam Hussein would provide al Qaeda with weapons of mass destruction for purposes of an offensive attack against the United States, including—

(A) on September 25, 2002, President George W. Bush stated that ''[Y]ou can't distinguish between al Qa'ida and Saddam when you talk about the war on terror.'';

(B) on September 26, 2002, President George W. Bush stated that ''[t]he dangers we face will only worsen from month to month and from year to year . . . Each passing day could be the one on which the Iraqi regime gives anthrax or VX—nerve gas—or some day a nuclear weapon to a terrorist ally.'';

(C) on October 14, 2002, President George W. Bush stated that ''[t]his is a man that we know has had connections with al Qa'ida. This is a man who, in my judgment, would like to use al Qa'ida as a forward army.'';

(D) on November 7, 2002, President George W. Bush stated that ''[Saddam is] a threat because he is dealing with al Qaida . . . [A] true threat facing our country is that an al Qaida-type network trained and armed by Saddam could attack America and not leave one fingerprint.'';

(E) on January 31, 2003, President George W. Bush stated that ''Saddam Hussein would like nothing more than to use a terrorist network to attack and to kill and leave no fingerprints behind.'';

(F) on March 16, 2003, Vice President Richard B. Cheney stated that ''we also have to address the question of where might these terrorists acquire weapons of mass destruction, chemical weapons, biological weapons,

nuclear weapons? And Saddam Hussein becomes a prime suspect in that regard because of his past track record and because we know he has, in fact, developed these kinds of capabilities, chemical and biological weapons. We know he's used chemical weapons. And we know he's reconstituted these programs since the Gulf War. We know he's out trying once again to produce nuclear weapons and we know that he has a long-standing relationship with various terrorist groups, including the al-Qaeda organization.'';

(G) on March 17, 2003, President George W. Bush stated that ''The danger is clear: using chemical, biological or, one day, nuclear weapons obtained with the help of Iraq, the terrorists could fulfill their stated ambitions and kill thousands or hundreds of thousands of innocent people in our country or any other.'';

(H) on May 1, 2003, President George W. Bush stated that ''[t]he liberation of Iraq . . . removed an ally of al Qaeda.'';

(I) on September 14, 2003, Vice President Richard B. Cheney stated that ''the Iraqi intelligen[ce] service had a relationship with al Qaeda that developed throughout the decade of the 90's. That was clearly official policy.'';

(J) on September 14, 2003, Vice President Richard B. Cheney stated that ''[i]f we're successful in Iraq . . . we will have struck a major blow right at the heart of the base, if you will, the geographic base of the terrorists who have had us under assault now for many years, but most especially on 9/11.''; and

(K) on March 21, 2006, President George W. Bush said at a press conference, ''But we realized on September the 11th, 2001, that killers could destroy innocent life. And I'm never going to forget it. And I'm never going to forget the vow I made to the American people that we will do everything in our power to protect our people. Part of that meant to make sure that we didn't allow people to provide safe haven to an enemy. And that's why I went into Iraq.''.

(d) INADEQUATE PLANNING AND INSUFFICIENT TROOP LEVELS.—The Senate finds the following:

(1) The intelligence community judged in January 2003 that ''[t]he ouster of Iraqi dictator Saddam Hussayn would pose a variety of significant policy challenges for whoever assumes responsibility for governing Iraq'' including ''political transformation, controlling internal strife, solving economic and humanitarian challenges, and dealing with persistent foreign policy and security concerns.''.

(2) The intelligence community judged in January 2003 that ''a post-Saddam authority would face a deeply divided society with a significant chance that domestic groups would engage in violent conflict with each other unless an occupying force prevented them from doing so.''.

(3) These judgments were delivered to the White House and Office of the Vice President.

(4) Then Army Chief of Staff General Shinseki testified on February 25, 2003, that ''something on the order of several hundred thousands soldiers'' would be needed to secure Iraq following a successful completion of the war.

(5) General Abizaid, then-CENTCOM commander, testified before the Senate Armed Services Committee on November 15, 2006, that ''General Shinseki was right that a greater international force contribution, United States force contribution and Iraqi force contribution should have been available immediately after major combat operations.''.

(6) After President George W. Bush declared the end of major combat operations in Iraq, there were insufficient troops to prevent the outbreak of violence and lawlessness that contributed to the flight of millions of Iraqis and the deaths of tens of thousands of Iraqis.

(7) The Government Accountability Office provided testimony to the Subcommittee on National Security and Foreign Affairs, House Committee on Oversight and Government Reform, on March 22, 2007, that due to insufficient troop levels, United States forces were unable to secure conventional weapons stockpiles in Iraq that continue to pose a threat to American servicemembers.

(8) President George W. Bush failed to ensure that plans were prepared and implemented to address the challenges that the intelligence community predicted would occur after the ouster of Saddam Hussein, and in particular failed to ensure that there were sufficient coalition troops in Iraq after major combat operations ended to maintain security and secure weapons stockpiles.

(e) STRAIN ON MILITARY AND UNDERMINING HOMELAND SECURITY.—The Senate finds the following:

(1) Retired Major General John Batiste, former commander of the First Infantry Division in Iraq, testified before the House Committee on Foreign Affairs on June 27, 2007, that ''[o]ur Army and Marine Corps are at a breaking point at a time in history when we need a strong military the most. The cycle of deployments is staggering. American formations continue to lose a battalion's worth of dead and wounded every month with little to show for it. The current recruiting system falls drastically short of long-term requirements and our all-volunteer force can not sustain the current tempo for much longer. The military is spending over $1,000,000,000 a year in incentives in a last ditch effort to keep the force together. Young officers and noncommissioned officers are leaving the service at an alarming rate.''.

(2) Extended deployments of 15 months, and insufficient time to rest and train between deployments, have undermined the readiness of the Army.

(3) The Army National Guard reported as early as July 2005 that equipment transfers to deploying units ''had largely exhausted its inventory of more than 220 critical items, including some items useful to nondeployed units for training and domestic missions.''.

(4) The Government Accountability Office found, in September 2006, that ''[a]mong the items for which the Army National Guard had shortages of over 80 percent of the authorized inventory were chemical warfare monitoring and decontamination equipment and night vision goggles''.

(5) President George W. Bush's policies in Iraq have undermined homeland security by depleting the personnel and equipment needed by the National Guard.

(f) INSURGENCY IN ''LAST THROES''.—The Senate finds the following:

(1) Multi-National Force-Iraq reports indicate that the number of attacks on coalition forces has increased since the beginning of military action.

(2) The Government Accountability Office, in March 2007, reported that attacks using improvised explosive devices continued to increase between 2005 and July 2006.

(3) On June 23, 2005, General John Abizaid, in his capacity as head of Central Command, testified before the Senate Armed Services Committee about the state of the insurgency that ''[i]n terms of comparison from 6 months ago, in terms of foreign fighters I believe there are more foreign fighters coming into Iraq than there were 6 months ago. In terms of the overall strength of the insurgency, I'd say it's about the same as it was.''.

(4) President George W. Bush's Initial Benchmark Assessment report from July 12, 2007, states that ''[a]s a result of increased offensive operations, Coalition and Iraqi Forces have sustained increased attacks in Iraq, particularly in Baghdad, Diyala, and Salah ad Din.''.

(5) Vice President Richard B. Cheney made misleading statements that the insurgency in Iraq was in its ''last throes,'' including—

(A) on May 30, 2005, Vice President Richard B. Cheney said, ''The level of activity that we see today from a military standpoint, I think, will clearly decline. I think they're in the last throes, if you will, of the insurgency.''; and

(B) on June 19, 2006, Vice President Richard B. Cheney was asked whether he still supported the comment he made in 2005, regarding the fact that the insurgency in Iraq was in its ''last throes,'' to which he responded ''I do.''

SEC. 2. CENSURE BY THE SENATE.

The Senate censures President George W. Bush and Vice President Richard B. Cheney for—

(1) misleading the American people about the basis for going to war in Iraq;

(2) failing to plan adequately for the war;

(3) pursuing policies in Iraq that have strained our military and undermined our homeland security; and

(4) misleading the American people about the insurgency in Iraq.

Mr. FEINGOLD. Mr. President, today I am introducing two censure resolutions condemning the President, Vice President, and Attorney General for their misconduct relating to the war in Iraq and for their repeated assaults on the rule of law. These censure resolutions are critical steps to hold the administration accountable for the misconduct and egregious abuses of the law that we have witnessed over the past 6½ years.

When future generations look back at the misbehavior of this administration, they need to know that an equal branch of Government stood up and formally repudiated that misbehavior. They need to know that this administration was not allowed to violate with impunity the principles on which our Nation was founded.

Some have said that censure does too little. Others protest that it goes too far. I understand the concerns of those who believe that this administration deserves worse than censure. I agree that censure is not a cure for the devastating toll this administration's actions have had on this country. But it is a step in the right direction and it most certainly is important for the historical record. Because censure does not require multiple impeachments in the House and trials in the Senate, or the support of two-thirds of Senators, it is far less cumbersome than impeachment. We can pass these resolutions without taking significant time away from our efforts to address other pressing matters.

The first resolution, S. Res. 302, cosponsored by Senators Harkin and Boxer, censures the President and Vice President for their misconduct relating to the war in Iraq. It cites their misleading pre-war statements, which

were not based on available intelligence, exaggerating the threat posed by Saddam Hussein and the likelihood that he had nuclear weapons, and falsely implying that he had a relationship with al Qaeda and links to 9/11. This resolution also condemns the President's appalling failure to ensure that adequate plans were in place to address the post-Saddam problems predicted by the intelligence community, and in particular his failure to ensure that sufficient troops were deployed to maintain order and secure weapons stockpiles in Iraq. The resolution censures the President for pursuing policies in Iraq that have placed unfair burdens on our brave men and women in uniform and undermined our homeland security. The resolution censures the Vice President for his misleading statements about the Iraqi insurgency being in its ''last throes.'' The Vice President's recent, belated concession that he was incorrect does not mitigate his efforts to mislead the American people on this point.

The second resolution, S. Res. 303, cosponsored by Senator HARKIN, censures the President and Attorney General for undermining the rule of law. The President and Attorney General have shown flagrant disregard for statutes, for treaties ratified by the United States, and for our own Constitution—all in an effort to consolidate more and more power in the executive branch. In the process, they have repeatedly misled the American people. Among the abuses of the rule of law that this censure resolution addresses are the illegal warrantless wiretapping program at the National Security Agency, the administration's interrogation policy, extreme positions taken on treatment of detainees that have been repeatedly rejected by the Supreme Court, misleading statements by the President and the Attorney General on the USA PATRIOT Act, the refusal to recognize and cooperate with Congress's legitimate responsibility to conduct oversight, and the use of signing statements that further demonstrate this President does not believe he has to follow the laws that Congress writes.

More than a year ago, I introduced a resolution to censure the President for breaking the law with his warrantless wiretapping program and for misleading the public and Congress before and after the program was revealed. This time, I am taking a broader approach because evidence of the administration's misconduct, misleading statements and abuses of power has only mounted since then.

While I do not believe impeachment proceedings would be best for the country, I share the public's deep anger at this administration's repeated and serious wrongdoing and its refusal to acknowledge or answer for its actions. These two resolutions give Congress a way to condemn the administration's actions without taking time and energy away from the other critically important work before us.

Passing these resolutions would also make clear, not only to the American people today, but also to future generations, how this President and this administration misserved the country. History will judge them, and us, by our actions, so we must formally condemn the malfeasance of this President and his administration.

Censure is a measured approach that both holds this administration accountable and allows Congress to focus on ending the war in Iraq, protecting the rule of law and addressing the many other needs of the American people. I am pleased to be working with Congressman MAURICE HINCHEY, who is introducing companion legislation.

SENATE RESOLUTION 303—CENSURING THE PRESIDENT AND THE ATTORNEY GENERAL

Mr. FEINGOLD (for himself and Mr. HARKIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 303

Resolved,

SECTION 1. BASIS FOR CENSURE.

(a) NATIONAL SECURITY AGENCY WIRETAPPING.—The Senate finds the following:

(1) Congress passed the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), and in so doing provided the executive branch with clear authority to wiretap suspected terrorists inside the United States.

(2) Section 201 of the Foreign Intelligence Surveillance Act of 1978 states that it and the criminal wiretap law are the ''exclusive means by which electronic surveillance'' may be conducted by the United States Government, and section 109 of that Act makes it a crime to wiretap individuals without complying with this statutory authority.

(3) The Foreign Intelligence Surveillance Act of 1978 both permits the Government to initiate wiretapping immediately in emergencies as long as the Government obtains approval from the court established under section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) within 72 hours of initiating the wiretap, and authorizes wiretaps without a court order otherwise required by the Foreign Intelligence Surveillance Act of 1978 for the first 15 days following a declaration of war by Congress.

(4) The Authorization for Use of Military Force that became law on September 18, 2001 (Public Law 107–40; 50 U.S.C. 1541 note), did not grant the President the power to authorize wiretaps of Americans within the United States without obtaining the court orders required by the Foreign Intelligence Surveillance Act of 1978.

(5) The President's inherent constitutional authority does not give him the power to violate the explicit statutory prohibition on warrantless wiretaps in the Foreign Intelligence Surveillance Act of 1978.

(6) George W. Bush, President of the United States, authorized the National Security Agency to wiretap Americans within the United States without obtaining the court orders required by the Foreign Intelligence Surveillance Act of 1978 for more than 5 years.

(7) Alberto R. Gonzales, as Attorney General of the United States and as Counsel to the President, reviewed and defended the legality of the President's authorization of wiretaps by the National Security Agency of Americans within the United States without the court orders required by the Foreign Intelligence Surveillance Act of 1978.

(8) President George W. Bush repeatedly misled the public prior to the public disclosure of the National Security Agency warrantless surveillance program by indicating his Administration was relying on court orders to wiretap suspected terrorists inside the United States.

(9) Alberto R. Gonzales misled Congress in January 2005 during the hearing on his nomination to be Attorney General of the United States by indicating that a question about whether the President has the authority to authorize warrantless wiretaps in violation of statutory prohibitions presented a ''hypothetical situation,'' even though he was fully aware that a warrantless wiretapping program had been ongoing for several years.

(10) In statements about the supposed need for the National Security Agency warrantless surveillance program after the public disclosure of the program, President George W. Bush falsely implied that the program was necessary because the executive branch did not otherwise have authority to wiretap suspected terrorists inside the United States.

(11) Attorney General Alberto R. Gonzales, despite his admitted awareness that congressional critics of the program support wiretapping terrorists in accordance with the Foreign Intelligence Surveillance Act of 1978, attempted to create the opposite impression by making public statements such as ''[s]ome people will argue that nothing could justify the Government being able to intercept conversations like the ones the Program targets''.

(12) President George W. Bush inaccurately stated in his January 31, 2006, State of the Union address that ''[p]revious Presidents have used the same constitutional authority I have, and federal courts have approved the use of that authority.'', even though the Administration has failed to identify a single instance since the Foreign Intelligence Surveillance Act of 1978 became law in which another President has authorized wiretaps inside the United States without complying with the Foreign Intelligence Surveillance Act of 1978, and no Federal court has evaluated whether the President has the inherent authority to authorize wiretaps inside the United States without complying with the Foreign Intelligence Surveillance Act of 1978.

(13) At a Senate Judiciary Committee hearing on February 6, 2006, Attorney General Alberto R. Gonzales defended the President's misleading statements in the January 31, 2006, State of the Union address.

(14) Attorney General Alberto R. Gonzales has misled Congress and the American people repeatedly by stating that there was no serious disagreement among Government officials ''about'' or ''relate[d] to'' the National Security Agency program confirmed by the President.

(15) According to testimony from former Deputy Attorney General James Comey, Alberto R. Gonzales, while serving as Counsel to the President, participated in a visit to then-Attorney General John Ashcroft in the intensive care unit of the hospital in an attempt to convince Mr. Ashcroft to overturn the decision by Mr. Comey, then serving as Acting Attorney General due to Mr. Ashcroft's illness, not to certify the legality of a classified intelligence program, in what Mr. Comey described as ''an effort to take advantage of a very sick man''.

(b) DETAINEE AND TORTURE POLICY.—The Senate finds the following:

(1) The United States is a party to the Convention Against Torture, the Geneva Conventions, and the International Covenant on Civil and Political Rights.

(2) Common Article 3 of the Geneva Conventions requires that detainees in armed conflicts other than those between nations ''shall in all circumstances be treated humanely,'' and the Third Geneva Convention on the Treatment of Prisoners of War provides additional protections for detainees who qualify as ''prisoners of war''.

(3) United States law criminalizes any ''act specifically intended to inflict severe physical or mental pain or suffering'' under sections 2340 and 2340A of title 18, United States Code, and the War Crimes Act (18 U.S.C. 2441) and recognizes the gravity of such offenses by further providing for civil liability under the Torture Victim Protection Act and the Alien Tort Claims Act.

(4) In a draft memorandum dated January 25, 2002, Alberto R. Gonzales, in his capacity as Counsel to the President, argued that the protections of the Third Geneva Convention should not be afforded to Taliban and al Qaeda detainees, and described provisions of the Convention as ''quaint'' and ''obsolete''.

(5) The January 25, 2002, memorandum by then-Counsel to the President Alberto R. Gonzales cited ''reduc[ing] the threat of domestic criminal prosecution'' as a ''positive'' consequence of disavowing the Geneva Conventions' applicability, asserting that such a disavowal ''would provide a solid defense to any future prosecution'' in the event a prosecutor brought charges under the domestic War Crimes Act.

(6) Secretary of State Colin Powell responded in a January 26, 2002, memorandum that such an attempt to evade the Geneva Conventions would ''reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the rule of law for our troops''.

(7) Despite the warnings of the Secretary of State and in contravention of the language of the Third Geneva Convention, President George W. Bush announced on February 7, 2002, that—

(A) he did not consider the Convention to apply to al Qaeda fighters; and

(B) Taliban detainees would not be entitled to ''prisoner of war'' status under the Convention, despite the fact that Article 5 of the Convention and United States Army regulations expressly require such determinations to be made by a ''competent tribunal''.

(8) The Supreme Court, in Hamdan v. Rumsfeld, confirmed that Common Article 3 of the Geneva Conventions applies to Taliban forces and al Qaeda forces, and characterized a central legal premise by which the President sought to avoid the obligations of international law as ''erroneous''.

(9) Alberto R. Gonzales, acting as Counsel to the President, solicited and accepted the August 1, 2002, Office of Legal Counsel memorandum entitled ''Standards of Conduct for Interrogation under 18 U.S.C. §§ 2340–2340A'', which took the untenable position that ''mere infliction of pain'' is not ''torture'' unless ''the victim . . . experiences intense pain or suffering of the kind that is equivalent to the pain that would be associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result.''.

(10) According to the ''Review of Department of Defense Detention Operations and Detainee Interrogation Techniques'' (the ''Church Report''), issued on March 7, 2005, then-Secretary of Defense Donald Rumsfeld on December 2, 2002, authorized the use on Guantanamo Bay detainees of harsh interrogation techniques not listed in the Army Field Manual, including stress positions, hooding, the use of military dogs to exploit phobias, prolonged isolation, sensory deprivation, and forcing Muslim men to shave their beards.

(11) According to the ''Article 15–6 Investigation of CJSOTF–AP [Combined Joint Special Operations Task Force-Arabian Peninsula] and 5th SF [Special Forces] Group Detention Operation (Formica Report)'' and Department of Defense documents released under the Freedom of Information Act, Guantanamo Bay detainees were chained to the floor, subjected to loud music, fed only bread and water, and kept for some period of time in cells measuring 4 feet by 4 feet by 20 inches.

(12) The March 2004 investigative report of Major General Antonio Taguba documented ''sadistic, blatant and wanton criminal abuses'' against detainees at the Abu Ghraib detention facility, including sexual and physical abuse, the threat of torture, the forcing of detainees to perform degrading acts designed to assault their religious identity, and the use of dogs to frighten detainees.

(13) According to Department of Defense documents released under the Freedom of Information Act, the United States Armed Forces held certain Iraqis as ''ghost detainees,'' who were ''not accounted for'' and were hidden from the observation of the International Committee of the Red Cross (ICRC).

(14) Military autopsy reports and death certificates released pursuant to the Freedom of Information Act revealed that at least 39 deaths, and probably more, have occurred among detainees in United States custody overseas, approximately half of which were homicides and 7 of which appear to have been caused by ''strangulation,'' ''asphyxiation'' or fatal ''blunt force injuries''.

(15) On September 6, 2006, President George W. Bush stated that he had authorized the incommunicado detention of certain suspected terrorist leaders and operatives at secret sites outside the United States under a ''separate program'' operated by the Central Intelligence Agency.

(16) President George W. Bush has authorized the indefinite detention, without charge or trial, of more than 700 individuals at Guantanamo Bay Naval Base on the ground that they are ''enemy combatants'' and therefore may be held until the cessation of hostilities under the laws of war.

(17) Department of Justice lawyers, representing President George W. Bush and the Department of Defense in a Federal lawsuit brought on behalf of Guantanamo detainees, took the unprecedented position that the term ''enemy combatant'' could in theory justify the indefinite detention of a ''little old lady in Switzerland who writes checks to what she thinks is [a] charity that helps orphans in Afghanistan but is really a front to finance al-Qaeda activities'' and ''a person who teaches English to the son of an al Qaeda member''.

(18) After the Supreme Court in Hamdi v. Rumsfeld and Rasul v. Bush rejected the claim that an alleged ''enemy combatant'' could be detained indefinitely without any meaningful opportunity to challenge the designation, the Deputy Secretary of Defense issued an order on July 7, 2004, creating ''Combatant Status Review Tribunals'' (CSRTs) for the stated purpose of ''review[ing] the detainee's status as an enemy combatant''.

(19) Such Order—

(A) did not allow detainees to be represented by counsel in Combatant Status Review Tribunal proceedings, but instead specified that a ''military officer'' would be assigned to ''assist[ ]'' each detainee and required such military officers to inform the detainees that ''I am neither a lawyer nor your advocate,'' and that ''[n]one of the information you provide me shall be held in confidence'';

(B) allowed the detainee to be excluded from attendance during review proceedings involving ''testimony or other matters that would compromise national security if held in the presence of the detainee'';

(C) allowed the decision-maker to rely on hearsay evidence and specified that ''[t]he Tribunal is not bound by the rules of evidence such as would apply in a court of law''; and

(D) specified that ''there shall be a rebuttable presumption in favor of the Government's evidence''.

(20) The Government has relied on the above procedures to deprive individuals of their liberty for an indefinite period of time without a meaningful opportunity to confront and rebut the evidence on which that detention is predicated.

(21) President George W. Bush and the Department of Defense designated at least 2 United States citizens as ''enemy combatants,'' claimed the right to detain them indefinitely on United States soil without charge and without access to counsel, and argued that allowing meaningful judicial review of their detention would be ''constitutionally intolerable''.

(22) The Supreme Court established in Hamdi v. Rumsfeld that meaningful review by a neutral decisionmaker of the detention of United States citizens is constitutionally required, that ''the risk of an erroneous deprivation of a citizen's liberty . . . is very real,'' and that the Constitution mandates that a United States citizen be given a fair opportunity to rebut the Government's ''enemy combatant'' designation.

(23) The administration, having consistently claimed that according United States citizens designated as ''enemy combatants'' the due process protections accorded to criminal defendants in civilian courts would jeopardize national security interests of the utmost importance, elected to pursue criminal charges against alleged ''enemy combatant'' Jose Padilla in a civilian court after holding him in military custody for 3 years.

(24) The administration, having contended that alleged ''enemy combatant'' and United States citizen Yaser Esam Hamdi was so dangerous that merely allowing him to meet with counsel ''jeopardizes compelling national security interests'' because he might ''pass concealed messages through unwitting intermediaries,'' released Mr. Hamdi from custody after 3 years and allowed him to return to Saudi Arabia.

(25) President George W. Bush issued ''Military Order of November 13, 2001, Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,'' which authorized the creation of military tribunals to try suspected al Qaeda members and other international terrorist suspects for violations of the law of war.

(26) Alberto R. Gonzales, as Counsel to the President, in a November 30, 2001, newspaper editorial, defended these military tribunals and misleadingly represented that they would have adequate procedural safeguards, by stating: ''Everyone tried before a military commission will know the charges against him, be represented by qualified counsel and be allowed to present a defense.''.

(27) The military tribunals' procedural rules as outlined in Military Commission Order No. 1, issued on March 21, 2002, and as subsequently amended—

(A) permitted the accused and his civilian counsel to be excluded from any part of the proceeding that the presiding officer decided to close, and never learn what was presented during that portion of the proceeding;

(B) permitted the introduction of any evidence that the presiding officer determined would have probative value to a reasonable person, thereby permitting the admission of hearsay and evidence obtained through undue coercion; and

(C) restricted appellate review of the commissions to a panel appointed by the Secretary of Defense, followed by review by the Secretary of Defense and a final decision by the President, with no provision for direct appeal to the Federal courts for review by civilian judges.

(28) Nearly 5 years after the military order was signed, the Supreme Court in Hamdan v. Rumsfeld struck down the military commissions as unlawful, finding that—

(A) the military commissions as constituted were not expressly authorized by any congressional act, including the Authorization for Use of Military Force, the Uniform Code of Military Justice (UCMJ), and the Detainee Treatment Act;

(B) the military commission procedures violated the UCMJ, which mandates that rules governing military commissions be as similar to those governing courts-martial ''as practicable,'' and which affords the accused the right to be present;

(C) the military commission procedures violated Common Article 3 of the Geneva Conventions, which is part of the ''law of war'' under UCMJ Article 21 and requires trial in ''a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples''.

(29) President George W. Bush sought to prevent the Guantanamo detainees from obtaining judicial review of their indefinite confinement by claiming that the writ of habeas corpus was categorically unavailable to non-citizens held at Guantanamo Bay.

(30) The Supreme Court in Rasul v. Bush squarely rejected this claim, holding that the legal precedent on which the President relied ''plainly does not preclude the exercise of [statutory habeas] jurisdiction'' over the detainees' claims, and that the general presumption against extraterritorial application of a statute, cited by the President, ''certainly has no application'' with respect to detainees at Guantanamo Bay where the United States exercises ''complete jurisdiction and control''.

(c) UNITED STATES ATTORNEY FIRINGS AND EXECUTIVE PRIVILEGE.—The Senate finds the following:

(1) At least 9 United States Attorneys were told in 2006 that they must step down under the authority of President George W. Bush, who had the final decision-making power in terminating the employment of United States Attorneys.

(2) Attorney General Alberto R. Gonzales and subordinates under his supervision repeatedly misled Congress and attempted to block legitimate congressional oversight efforts concerning the firing of at least nine United States Attorneys.

(3) Attorney General Alberto R. Gonzales repeatedly obscured the true scope of the firings, originally declining to cite a specific number of individuals fired in his testimony on January 18, 2007, acknowledging only seven in his USA Today op-ed published on March 6, 2007, acknowledging eight firings in his testimony on April 19, 2007, tacitly conceding there had been nine individuals fired in his testimony on May 10, 2007, and testifying on July 24, 2007, that ''there may have been others'' but he did not know the exact number.

(4) Attorney General Alberto R. Gonzales initially characterized the firings as ''an overblown personnel matter,'' claiming that the United States Attorneys had lost his confidence and were fired for ''performance reasons'' when many of those same individuals had received only the highest performance reviews prior to their dismissal.

(5) Attorney General Alberto R. Gonzales testified before the Senate on January 18, 2007, that he would ''never, ever make a change in a United States attorney for political reasons,'' but in later testimony on April 19, 2007, and July 24, 2007, admitted that he does not know who selected each individual United States Attorney for firing or why they were included on the list of United States Attorneys to be fired.

(6) Prior to their selection for firing, both former New Mexico United States Attorney David Iglesias and former Washington United States Attorney John McKay received inappropriate phone calls from Members of Congress or their staffs regarding ongoing, politically sensitive investigations and the White House received complaints about the manner in which they were conducting those investigations.

(7) Attorney General Alberto R. Gonzales testified before the Senate on January 18, 2007, that he would not fire a United States Attorney ''if it would in any way jeopardize an ongoing serious investigation,'' but later testified, as did his subordinates, that concerns about whether ongoing investigations would be jeopardized were not explored prior to the firings and were specifically ignored when some fired United States Attorneys asked for a delay in their departure dates to allow them to wrap up ongoing investigations.

(8) Attorney General Alberto R. Gonzales publicly stated on March 13, 2007, that he was ''not involved in seeing any memos, was not involved in any discussions about what was going on'' regarding the process leading up to the firing of the United States Attorneys, but later testimony from his subordinates and documents released by the Department of Justice indicate that the Attorney General was, in fact, regularly briefed on the process and did receive at least one memo in November 2005 regarding the planned firings.

(9) Attorney General Alberto R. Gonzales publicly stated on May 15, 2007, that Deputy Attorney General Paul McNulty's participation in the firing of the United States Attorneys was of central importance to the validity of the process and to the Attorney General's decision to fire the specific individuals, but he had previously testified on April 19, 2007, that he did not discuss the process with Mr. McNulty prior to firing the United States Attorneys, and that ''looking back . . . I would have had the deputy attorney general more involved, directly involved''.

(10) Attorney General Alberto R. Gonzales testified on May 10, 2007, that, after the start of the congressional investigation into the firings, he had refrained from discussing the firings with anyone involved because he did not want to interfere with the ongoing investigations, but former White House Liaison for the Department of Justice, Monica Goodling, testified on May 23, 2007, that the Attorney General spoke with her in late March of 2007 and ''laid out . . . his general recollection . . . of some of the process regarding the replacement of the United States Attorneys.''

(11) Former White House Liaison for the Department of Justice, Monica Goodling, also testified on May 23, 2007, that she did not respond to what Attorney General Alberto R. Gonzales said about his recollection because ''I did not know if it was appropriate for us to both be discussing our recollections of what had happened, and I just thought maybe we shouldn't have that conversation.''

(12) President George W. Bush has consistently stonewalled congressional attempts at oversight by refusing to turn over White House documents relating to the firing of at least 9 United States Attorneys and refusing to allow current or former White House officials to testify before Congress on this matter, based on an excessively broad and legally insufficient assertion of executive privilege.

(13) President George W. Bush has asserted executive privilege in refusing even to turn over correspondence between non-Executive Branch officials and White House officials concerning the firings of at least 9 United States Attorneys, even though such communications could not reasonably be classified as falling within the privilege.

(14) President George W. Bush has directed at least two staff members, former and current, to ignore congressional subpoenas altogether, ordering former Counsel to the President Harriet Miers and current Deputy Chief of Staff and Senior Adviser to the President Karl Rove not to appear at Congressional oversight hearings based on the assertion that immediate presidential advisors are ''immune from compelled Congressional testimony about matters that arose during [their] tenure,'' rather than simply instructing them to refrain from answering questions that might be covered by a proper assertion of executive privilege.

(15) President George W. Bush has refused to work to find a compromise with Congress or otherwise accommodate legitimate congressional oversight efforts, disregarding the proper relationship between the executive and legislative branches and demonstrating a belief that he and his Administration are above oversight and the rule of law.

(d) MISLEADING STATEMENTS ON THE USA PATRIOT ACT.—The Senate finds the following:

(1) President George W. Bush made misleading claims during the course of the Administration's 2005 campaign to reauthorize the USA PATRIOT Act of 2001, by suggesting that Federal officials did not have access to the same tools to investigate terrorism as they did to investigate other crimes.

(2) In 2005 the Federal Bureau of Investigation transmitted to Attorney General Alberto R. Gonzales multiple reports of violations of law in connection with provisions of the USA PATRIOT Act and related authorities, including unauthorized surveillance and improper collection of communications data that were serious enough to require notification of the President's Intelligence Oversight Board.

(3) Despite these reports, Attorney General Alberto R. Gonzales told Congress and the American people in the course of the Administration's 2005 campaign to reauthorize the USA PATRIOT Act of 2001 that ''[t]he track record established over the past three years has demonstrated the effectiveness of the safeguards of civil liberties put in place when the Act was passed,'' that ''[t]here has not been one verified case of civil liberties abuse,'' and that ''no one has provided me with evidence that the Patriot Act is being abused or misused''.

(4) The United States Department of Justice sent a 10-page letter to Congress dated November 23, 2005—

(A) stating that a November 6, 2005, Washington Post story detailing the Federal Bureau of Investigation's use of National Security Letters was a ''materially misleading portrayal'' full of ''distortions and factual errors'';

(B) defending its use of National Security Letters by pointing to the Department's ''robust mechanisms for checking misuse,'' ''significant internal oversight and checks,'' and reports to Congress regarding the number of National Security Letters issued; and

(C) stating that the November 6, 2005, Washington Post story was inaccurate in

stating that ''The FBI now issues more than 30,000 National Security Letters a year, . . . a hundredfold increase over historic norms.''.

(5) On March 9, 2007, the Inspector General for the United States Department of Justice issued a report on the Federal Bureau of Investigation's use of National Security Letters from 2003 through 2005—

(A) that the Inspector General said found ''widespread and serious misuse of the FBI's national security letter authorities'' that ''in many instances . . . violated NSL statutes, Attorney General Guidelines, or the FBI's own internal policies,'' and found that ''the FBI did not provide adequate guidance, adequate controls, or adequate training on the use of these sensitive authorities''; and

(B) that indicated the Federal Bureau of Investigation issued approximately 39,000 National Security Letter requests in 2003, 56,000 National Security Letter requests in 2004, and 47,000 National Security Letter requests in 2005.

(6) The United States Department of Justice sent a letter on March 9, 2007, to Congress, admitting that it had ''determined that certain statements in our November 23, 2005 letter need clarification'' in light of the Inspector General's findings and that ''the reports [The Department of Justice] provided Congress in response to statutory reporting requirements did not accurately reflect the FBI's use of NSLs''.

(e) SIGNING STATEMENTS.—The Senate finds the following:

(1) President George W. Bush has lodged more than 800 challenges to duly enacted provisions of law by issuing signing statements that indicate that the President does not believe he must comply with such provisions of law.

(2) Such signing statements effectively assign to the executive branch alone the decision whether to fully comply with the laws that Congress has passed.

(3) On December 30, 2005, President George W. Bush signed the Department of Defense Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, title X of which prohibits the Government from subjecting any individual ''in the custody or under the physical control of the United States Government, regardless of nationality or physical location'' to ''cruel, inhuman, or degrading treatment or punishment''.

(4) President George W. Bush issued a signing statement to such Act that suggested he believed he did not have to comply with the prohibition on torture and cruel, inhuman and degrading treatment, stating: ''The executive branch shall construe Title X in Division A of the Act, relating to detainees, in a manner consistent with the constitutional authority of the President to supervise the unitary executive branch and as Commander in Chief and consistent with the constitutional limitations on the judicial power, which will assist in achieving the shared objective of the Congress and the President, evidenced in Title X, of protecting the American people from further terrorist attacks.''.

(5) On March 9, 2006, President George W. Bush signed the USA PATRIOT Improvement and Reauthorization Act of 2005, which requires that the executive branch furnish reports to Congress on certain surveillance activities.

(6) President George W. Bush issued a signing statement to such Act that suggested he believed he did not have to comply fully with these reporting requirements, stating: ''The executive branch shall construe the provisions of H.R. 3199 that call for furnishing information to entities outside the executive branch, such as sections 106A and 119, in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to withhold information the disclosure of which could impair foreign relations, national security, the deliberative processes of the Executive, or the performance of the Executive's constitutional duties.''.

(7) On December 20, 2006, President George W. Bush signed the Postal Accountability and Enhancement Act, which protects certain classes of sealed domestic mail from being opened except in specifically defined circumstances.

(8) President George W. Bush issued a signing statement to such Act that suggested he believed he did not have to comply with this provision, stating: ''The executive branch shall construe subsection 404(c) of title 39, as enacted by subsection 1010(e) of the Act, which provides for opening of an item of a class of mail otherwise sealed against inspection, in a manner consistent, to the maximum extent permissible, with the need to conduct searches in exigent circumstances, such as to protect human life and safety against hazardous materials, and the need for physical searches specifically authorized by law for foreign intelligence collection.''

(9) The American Bar Association Task Force on Presidential Signing Statements and the Separation of Powers Doctrine concluded that President George W. Bush's misuse of signing statements ''weaken[s] our cherished system of checks and balances and separation of powers''.

SEC. 2. CENSURE BY THE SENATE.

The Senate censures George W. Bush, President of the United States, and Alberto R. Gonzales, Attorney General of the United States, and condemns their lengthy record of—

(1) undermining the rule of law and the separation of powers;

(2) disregarding statutes, treaties ratified by the United States, and the Constitution; and

(3) repeatedly misleading the American people.

SENATE RESOLUTION 304—CONGRATULATING CHARLES SIMIC ON BEING NAMED THE 15TH POET LAUREATE OF THE UNITED STATES OF AMERICA BY THE LIBRARY OF CONGRESS

Mr. SUNUNU (for himself and Mr. GREGG) submitted the following resolution; which was considered and agreed to:

S. RES. 304

Whereas Charles Simic was born in Yugoslavia on May 9, 1938, and lived through the events of World War II;

Whereas, in 1954, at age 16 Charles Simic immigrated to the United States, and moved to Oak Park, Illinois;

Whereas Charles Simic served in the United States Army from 1961 to 1963;

Whereas Charles Simic received a bachelor's degree from New York University in 1966;

Whereas Charles Simic has been a United States citizen for 36 years and currently resides in Strafford, New Hampshire;

Whereas Charles Simic has authored 18 books of poetry;

Whereas Charles Simic is a professor emeritus of creative writing and literature at the University of New Hampshire, where he taught for 34 years before retiring;

Whereas Charles Simic is the 5th person to be named Poet Laureate with ties to New Hampshire, including Robert Frost, Maxine Kumin, Richard Eberhart, and Donald Hall;

Whereas Charles Simic won the Pulitzer Prize for Poetry in 1990 for his work ''The World Doesn't End'';

Whereas Charles Simic wrote ''Walking the Black Cat'' in 1996, which was a finalist for the National Book Award for Poetry;

Whereas Charles Simic won the Griffin Prize in 2005 for ''Selected Poems: 1963–2003'';

Whereas Charles Simic held a MacArthur Fellowship from 1984 to 1989 and has held fellowships from the Guggenheim Foundation and the National Endowment for the Arts;

Whereas Charles Simic earned the Edgar Allan Poe Award, the PEN Translation Prize, and awards from the American Academy of Arts and Letters and the National Institute of Arts and Letters;

Whereas Charles Simic served as Chancellor of the Academy of American Poets;

Whereas Charles Simic received the 2007 Wallace Stevens Award from the American Academy of Poets; and

Whereas on August 2, 2007, Librarian of Congress James H. Billington announced the appointment of Charles Simic to be the Library's 15th Poet Laureate Consultant in Poetry: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Charles Simic for being named the 15th Poet Laureate of the United States of America by the Library of Congress; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Charles Simic.

SENATE RESOLUTION 305—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE MEDICARE NATIONAL COVERAGE DETERMINATION ON THE TREATMENT OF ANEMIA IN CANCER PATIENTS

Mr. SPECTER (for himself, Mr. HARKIN, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 305

Whereas the Centers for Medicare & Medicaid Services issued a final Medicare National Coverage Determination on the Use of Erythropoiesis Stimulating Agents in Cancer and Related Neoplastic Conditions (CAG–000383N) on July 30, 2007;

Whereas 52 United States Senators and 235 Members of the House of Representatives, representing bipartisan majorities in both chambers, have written to the Centers for Medicare & Medicaid Services expressing significant concerns with the proposed National Coverage Determination on the Use of Erythropoiesis Stimulating Agents in Cancer and Related Neoplastic Conditions, issued on May 14, 2007, regarding the use of erythropoiesis stimulating agent therapy for Medicare cancer patients;

Whereas, although some improvements have been incorporated into such final National Coverage Determination, the policy continues to raise significant concerns among physicians and patients about the potential impact on the treatment of cancer patients in the United States;

Whereas the American Society of Clinical Oncology, the national organization representing physicians who treat patients with cancer, is specifically concerned about a provision in such final National Coverage Determination that restricts coverage whenever a patient's hemoglobin goes above 10 g/dL;

Whereas the American Society of Clinical Oncology has written to the Centers for Medicare & Medicaid Services to note that such a ''restriction is inconsistent with both

the FDA-approved labeling and national guidelines'', to express deep concerns about such final National Coverage Determination, and to urge that the Centers for Medicare & Medicaid Services reconsider such restriction;

Whereas such restriction could increase blood transfusions and severely compromise the high quality of cancer care delivered by physicians in United States; and

Whereas the Centers for Medicare & Medicaid Services has noted that the agency did not address the impact on the blood supply in such final National Coverage Determination and has specifically stated, ''[t]he concern about the adequacy of the nation's blood supply is not a relevant factor for consideration in this national coverage determination'': Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Centers for Medicare & Medicaid Services should begin an immediate reconsideration of the final National Coverage Determination on the Use of Erythropoiesis Stimulating Agents in Cancer and Related Neoplastic Conditions (CAG–000383N);

(2) the Centers for Medicare & Medicaid Services should consult with members of the clinical oncology community to determine appropriate revisions to such final National Coverage Determination; and

(3) the Centers for Medicare & Medicaid Services should implement appropriate revisions to such final National Coverage Determination as soon as feasible and provide a briefing to Congress in advance of announcing such changes.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce a sense of the Senate regarding a recent Centers for Medicare and Medicaid Services, CMS, national coverage determination on the treatment of anemia in Medicare cancer patients.

On June 29, 2007, I wrote to Secretary of Health and Human Services Michael Leavitt concerning the proposed CMS coverage determination that limits access to erythropoiesis-simulating agents which increases the red blood cell counts of chemotherapy patients who have become anemic. Further, 51 other Senators sent similar letters to Department of Health and Human Services officials.

On July 30, 2007, CMS issued the final coverage determination, and while some of the proposed restrictions were substantially altered in favor of patients, I remain concerned about the impact that this decision will have on Medicare beneficiary access to needed therapies. The new policy requires that patients have lower red blood cell counts before being able to receive treatment with an erythropoiesis-simulating agent, resulting in patients that are unnecessarily weaker and may not be able to maintain their chemotherapy treatment regimens without having to turn to costly and time-consuming blood transfusions.

This restriction is inconsistent with both the FDA-approved label and prescribing instructions and is also contrary to national professional society oncology guidelines. For instance, the American Society of Clinical Oncology, the national organization representing physicians who treat patients with cancer, has written to CMS to express deep concerns about the coverage determination, urging CMS to reconsider these restrictions.

I encourage my colleagues to support this sense of the Senate that I introduce with Senators HARKIN and LAUTENBERG to have CMS reconsider the final national coverage determination on the use of erythropoiesis-simulating agents.

SENATE CONCURRENT RESOLUTION 43—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE, AND A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. REID submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 43

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Friday, August 3, 2007, through Friday, August 31, 2007, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12 noon on Tuesday, September 4, 2007, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any legislative day from Friday, August 3, 2007, through Wednesday, August 8, 2007, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 4, 2007, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2649. Mr. MCCONNELL (for himself and Mr. BOND) proposed an amendment to the bill S. 1927, to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

SA 2650. Mr. REID (for Mr. KERRY) proposed an amendment to the bill S. 163, to improve the disaster loan program of the Small Business Administration, and for other purposes.

SA 2651. Mr. REID (for Mr. BOND) proposed an amendment to amendment SA 2650 proposed by Mr. REID (for Mr. KERRY) to the bill S. 163, supra.

SA 2652. Mr. REID (for Mr. COBURN) proposed an amendment to amendment SA 2650 proposed by Mr. REID (for Mr. KERRY) to the bill S. 163, supra.

SA 2653. Mr. REID (for Mr. DODD (for himself and Mr. REED)) proposed an amendment to the bill H.R. 2358, to require the Secretary of the Treasury to mint and issue coins in commemoration of Native Americans and the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States, and for other purposes.

SA 2654. Mr. COLEMAN (for Mr. BOND (for himself, Mr. COLEMAN, and Ms. KLOBUCHAR)) proposed an amendment to the bill H.R. 3311, to authorize additional funds for emergency repairs and reconstruction of the Interstate I–35 bridge located in Minneapolis, Minnesota, that collapsed on August 1, 2007, to waive the $100,000,000 limitation on emergency relief funds for those emergency repairs and reconstruction, and for other purposes.

SA 2655. Mr. REID (for Mr. KYL (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 849, to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

TEXT OF AMENDMENTS

SA 2649. Mr. MCCONNELL (for himself and Mr. BOND) proposed an amendment to the bill S. 1927, to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes; as follows:

At the end, add the following:

(c) SUNSET.—Except as provided in subsection (d), sections 2, 3, 4, and 5 of this Act, and the amendments made by this Act, shall cease to have effect 180 days after the date of the enactment of this Act.

(d) AUTHORIZATIONS IN EFFECT.—Authorizations for the acquisition of foreign intelligence information pursuant to the amendments made by this Act, and directives issued pursuant to such authorizations, shall remain in effect until their expiration. Such acquisitions shall be governed by the applicable provisions of such amendments and shall not be deemed to constitute electronic surveillance as that term is defined in section 101(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(f)).

SA 2650. Mr. REID (for Mr. KERRY) proposed an amendment to the bill S. 163, to improve the disaster loan program of the Small Business Administration, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Disaster Response and Loan Improvements Act of 2007''.

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

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms ''Administration'' and ''Administrator'' mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''catastrophic national disaster'' means a catastrophic national disaster declared under section 7(b)(11) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act;

(3) the term ''declared disaster'' means a major disaster or a catastrophic national disaster;

(4) the term ''disaster area'' means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration;

(5) the term ''disaster loan program of the Administration'' means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(6) the term ''disaster update period'' means the period beginning on the date on which the President declares a major disaster or a catastrophic national disaster and ending on the date on which such declaration terminates;

(7) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(8) the term ''small business concern'' has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(9) the term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

SEC. 3. EXTENSION OF PROGRAM AUTHORITY.

(a) IN GENERAL.—Section 1 of the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), is amended by striking ''July 31, 2007'' each place it appears and inserting ''October 31, 2007''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 31, 2007.

TITLE I—DISASTER PLANNING AND RESPONSE

SEC. 101. DISASTER LOANS TO NONPROFITS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3) the following:

''(4) LOANS TO NONPROFITS.—In addition to any other loan authorized by this subsection, the Administrator may make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to a nonprofit organization located or operating in an area affected by a natural or other disaster, as determined under paragraph (1) or (2), or providing services to persons who have evacuated from any such area.''.

SEC. 102. DISASTER LOAN AMOUNTS.

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (4), as added by this title, the following:

''(5) INCREASED LOAN CAPS.—

''(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed $2,000,000.

''(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.''.

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting ''of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)'' after ''20 per centum''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking ''the, Administration'' and inserting ''the Administration'';

(2) in paragraph (2)(A), by striking ''Disaster Relief and Emergency Assistance Act'' and inserting ''Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (in this subsection referred to as a 'major disaster')''; and

(3) in the undesignated matter at the end—

(A) by striking '', (2), and (4)'' and inserting ''and (2)''; and

(B) by striking '', (2), or (4)'' and inserting ''(2)''.

SEC. 103. SMALL BUSINESS DEVELOPMENT CENTER PORTABILITY GRANTS.

Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended—

(1) in the first sentence, by striking ''as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability'' and inserting ''due to events that have resulted or will result in, business or government facility downsizing or closing''; and

(2) by adding at the end ''At the discretion of the Administrator, the Administrator may make an award greater than $100,000 to a recipient to accommodate extraordinary occurrences having a catastrophic impact on the small business concerns in a community.''.

SEC. 104. ASSISTANCE TO OUT-OF-STATE BUSINESSES.

Section 21(b)(3) of the Small Business Act (15 U.S.C. 648(b)(3)) is amended—

(1) by striking ''At the discretion'' and inserting the following: ''SMALL BUSINESS DEVELOPMENT CENTERS.—

''(A) IN GENERAL.—At the discretion''; and

(2) by adding at the end the following:

''(B) DURING DISASTERS.—

''(i) IN GENERAL.—At the discretion of the Administrator, the Administrator may authorize a small business development center to provide such assistance to small business concerns located outside of the State, without regard to geographic proximity, if the small business concerns are located in a disaster area declared under section 7(b)(2)(A).

''(ii) CONTINUITY OF SERVICES.—A small business development center that provides counselors to an area described in clause (i) shall, to the maximum extent practicable, ensure continuity of services in any State in which such small business development center otherwise provides services.

''(iii) ACCESS TO DISASTER RECOVERY FACILITIES.—For purposes of providing disaster recovery assistance under this subparagraph, the Administrator shall, to the maximum extent practicable, permit small business development center personnel to use any site or facility designated by the Administrator for use to provide disaster recovery assistance.''.

SEC. 105. OUTREACH PROGRAMS.

(a) IN GENERAL.—Not later than 30 days after the date of the declaration of a disaster area, the Administrator may establish a contracting outreach and technical assistance program for small business concerns which have had a primary place of business in, or other significant presence in, such disaster area.

(b) ADMINISTRATOR ACTION.—The Administrator may carry out subsection (a) by acting through—

(1) the Administration;

(2) the Federal agency small business officials designated under section 15(k)(1) of the Small Business Act (15 U.S.C. 644(k)(1)); or

(3) any Federal, State, or local government entity, higher education institution, procurement technical assistance center, or private nonprofit organization that the Administrator may determine appropriate, upon conclusion of a memorandum of understanding or assistance agreement, as appropriate, with the Administrator.

SEC. 106. SMALL BUSINESS BONDING THRESHOLD.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster, the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed $5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed $10,000,000.

SEC. 107. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after ''January 1, 1989'' the following: '', and shall terminate on the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007''.

SEC. 108. INCREASING COLLATERAL REQUIREMENTS.

Section 7(c)(6) of the Small Business Act (15 U.S.C. 636(c)(6)) is amended by striking

''$10,000 or less'' and inserting ''$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a catastrophic national disaster declared under subsection (b)(11))''.

SEC. 109. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

''(6) COORDINATION WITH FEMA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster (including a catastrophic national disaster) declared under this subsection or major disaster, the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

''(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including a catastrophic national disaster), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

''(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;

''(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and

''(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

''(7) PUBLIC AWARENESS OF DISASTERS.—If a disaster (including a catastrophic national disaster) is declared under this subsection, the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

''(A) the date of such declaration;

''(B) cities and towns within the area of such declaration;

''(C) loan application deadlines related to such disaster;

''(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

''(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

''(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and

''(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.''.

(b) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) makes clear the services provided by the Administration, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

SEC. 110. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administration shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

SEC. 111. PROCESSING DISASTER LOANS.

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (7), as added by this Act, the following:

''(8) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

''(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster or a catastrophic national disaster declared under paragraph (11), under which the Administrator shall pay the contractor a fee for each loan processed.

''(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster or a catastrophic national disaster declared under paragraph (11), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.''.

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

SEC. 112. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the ''disaster response plan'') to apply to major disasters; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted to Congress on July 14, 2006;

(2) a description of how the Administrator plans to utilize and integrate District Office personnel of the Administration in the response to a major disaster, including information on the utilization of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administration can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the disaster loan program of the Administration in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mailroom, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) EXERCISES.—Not later than 6 months after the date of the submission of the report under subsection (a)(2), the Administrator shall develop and execute simulation exercises to demonstrate the effectiveness of the amended disaster response plan required under this section.

SEC. 113. DISASTER PLANNING RESPONSIBILITIES.

(a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRATION DISASTER PLANNING RESPONSIBILITIES.—The Administrator shall specifically assign the disaster planning responsibilities described in subsection (b) to an employee of the Administration who—

(1) is not an employee of the Office of Disaster Assistance of the Administration;

(2) shall report directly to the Administrator; and

(3) has a background and expertise demonstrating significant experience in the area of disaster planning.

(b) RESPONSIBILITIES.—The responsibilities described in this subsection are—

(1) creating and maintaining the comprehensive disaster response plan of the Administration;

(2) ensuring in-service and pre-service training procedures for the disaster response staff of the Administration;

(3) coordinating and directing Administration training exercises, including mock disaster responses, with other Federal agencies; and

(4) other responsibilities, as determined by the Administrator.

(c) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(1) a description of the actions of the Administrator to assign an employee under subsection (a);

(2) information detailing the background and expertise of the employee assigned under subsection (a); and

(3) information on the status of the implementation of the responsibilities described in subsection (b).

SEC. 114. ADDITIONAL AUTHORITY FOR DISTRICT OFFICES OF THE ADMINISTRATION.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

''(9) USE OF DISTRICT OFFICES.—In the event of a major disaster, the Administrator may authorize a district office of the Administration to process loans under paragraph (1) or (2).''.

(b) DESIGNATION.—

(1) IN GENERAL.—The Administrator may designate an employee in each district office of the Administration to act as a disaster loan liaison between the disaster processing center and applicants under the disaster loan program of the Administration.

(2) RESPONSIBILITIES.—Each employee designated under paragraph (1) shall—

(A) be responsible for coordinating and facilitating communications between applicants under the disaster loan program of the Administration and disaster loan processing staff regarding documentation and information required for completion of an application; and

(B) provide information to applicants under the disaster loan program of the Administration regarding additional services and benefits that may be available to such applicants to assist with recovery.

(3) OUTREACH.—In providing outreach to disaster victims following a declared disaster, the Administrator shall make disaster victims aware of—

(A) any relevant employee designated under paragraph (1); and

(B) how to contact that employee.

SEC. 115. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF DISASTER ASSISTANCE AND DISASTER CADRE.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (9), as added by this Act, the following:

''(10) DISASTER ASSISTANCE EMPLOYEES.—

''(A) IN GENERAL.—In carrying out this section, the Administrator shall, where practicable, ensure that the number of full-time equivalent employees—

''(i) in the Office of the Disaster Assistance is not fewer than 800; and

''(ii) in the Disaster Cadre of the Administration is not fewer than 750.

''(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, the Administrator shall, not later than 14 days after the date on which that staffing level decreased below the level described in subparagraph (A), submit a report to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and the Committee on Small Business and the Committee on Appropriations of the House of Representatives—

''(i) detailing the staffing levels on that date; and

''(ii) if determined appropriate by the Administrator, including a request for additional funds for additional employees.''.

SEC. 116. REPORT REGARDING LACK OF SNOW FALL.

Not later than 6 months after the date of enactment of this Act, the Administrator shall conduct a study of, and submit a report to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate that describes—

(1) the ability of the Administrator to provide loans under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) to small business concerns that depend on high snow fall amounts, and sustain economic injury (as described under that section) due to a lack of snow fall;

(2) the criteria that the Administrator would use to determine whether to provide a loan under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) to a small business concern that has been adversely affected by a lack of snow fall;

(3) other Federal assistance (including loans) available to small business concerns that are adversely affected by a lack of snow fall; and

(4) the history relating to providing loans under section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) to small business concerns that have been adversely affected by a lack of snow fall.

TITLE II—DISASTER LENDING

SEC. 201. CATASTROPHIC NATIONAL DISASTER DECLARATION.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (10), as added by this Act, the following:

''(11) CATASTROPHIC NATIONAL DISASTERS.—

''(A) PROMULGATION OF RULES.—Not later than 6 months after the date of enactment of this paragraph, the Administrator, in consultation with the Secretary of Homeland Security and the Administrator of the Federal Emergency Management Agency, shall promulgate regulations establishing a threshold for a catastrophic national disaster declaration under this Act, which shall consider—

''(i) the dollar amount per capita of damage to the State, its political subdivisions, or a region;

''(ii) the number of small business concerns damaged, physically or economically, as a direct result of the event;

''(iii) the number of individuals and households displaced from their predisaster residences by the event;

''(iv) the severity of the impact on employment rates in the State, its political subdivisions, or a region;

''(v) the anticipated length and difficulty of the recovery process; and

''(vi) other factors determined relevant by the Administrator.

''(B) AUTHORIZATION.—Following a declaration of a major disaster, if a damage assessment performed by the Administrator indicates that the damage caused by the event qualify as a catastrophic national disaster under subsection (a), the Administrator may make such loans under this paragraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to small business concerns located anywhere in the United States that are economically adversely impacted as a result of that catastrophic national disaster.

''(C) LOAN TERMS.—A loan under this paragraph shall be made on the same terms as a loan under paragraph (2).''.

SEC. 202. PRIVATE DISASTER LOANS.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) PRIVATE DISASTER LOANS.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'disaster area' means a county, parish, or similar unit of general local government in which a disaster was declared under subsection (b);

''(B) the term 'eligible small business concern' means a business concern that is—

''(i) a small business concern, as defined in this Act; or

''(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958; and

''(C) the term 'qualified private lender' means any privately-owned bank or other lending institution that the Administrator determines meets the criteria established under paragraph (9).

''(2) AUTHORIZATION.—The Administrator may guarantee timely payment of principal and interest, as scheduled on any loan issued by a qualified private lender to an eligible small business concern located in a disaster area.

''(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

''(4) ONLINE APPLICATIONS.—

''(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

''(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

''(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

''(5) MAXIMUM AMOUNTS.—

''(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

''(B) LOAN AMOUNTS.—The maximum amount of a loan guaranteed under this subsection shall be $2,000,000.

''(6) LOAN TERM.—The longest term of a loan for a loan guaranteed under this subsection shall be—

''(A) 15 years for any loan that is issued without collateral; and

''(B) 25 years for any loan that is issued with collateral.

''(7) FEES.—

''(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

''(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender and the Administrator.

''(8) DOCUMENTATION.—A qualified private lender may use its own loan documentation for a loan guaranteed by the Administrator, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (9).

''(9) IMPLEMENTATION REGULATIONS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

''(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(10) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

''(B) AUTHORITY TO REDUCE INTEREST RATES.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator, to the extent available, to reduce the rate of interest for any loan guaranteed under this subsection by not more than 3 percentage points.

''(11) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender to purchase any loan issued under this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared under section 7(b)(2) of the Small Business Act (631 U.S.C. 636(b)(2)) before, on, or after the date of enactment of this Act.

SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 4(c)—

(A) in paragraph (1), by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and

(B) in paragraph (2)—

(i) by striking ''7(c)(2)'' and inserting ''7(d)(2)''; and

(ii) by striking ''7(e),''; and

(2) in section 7(b), in the undesignated matter following paragraph (3)—

(A) by striking ''That the provisions of paragraph (1) of subsection (c)'' and inserting ''That the provisions of paragraph (1) of subsection (d)''; and

(B) by striking ''Notwithstanding the provisions of any other law the interest rate on the Administration's share of any loan made under subsection (b) except as provided in subsection (c),'' and inserting ''Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration's share of any loan made under subsection (b)''.

SEC. 204. EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term ''immediate disaster assistance'' means assistance provided during the period beginning on the date on which a disaster declaration is made and ending on the date that an impacted small business concern is able to secure funding through insurance claims, Federal assistance programs, or other sources; and

(2) the term ''program'' means the expedited disaster assistance business loan program established under subsection (b).

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program to provide small business concerns with immediate disaster assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b)).

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue rules in final form establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;

(ii) paying bills and other financial obligations;

(iii) making repairs;

(iv) purchasing inventory;

(v) restarting or operating a small business concern in the community in which it was conducting operations prior to the declared disaster, or to a neighboring area, county, or parish in the disaster area; or

(vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and

(B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan made by the Administration under this section—

(A) shall be for not more than $150,000;

(B) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(C) shall have an interest rate not to exceed 1 percentage point above the prime rate of interest that a private lender may charge;

(D) shall have no prepayment penalty;

(E) may only be made to a borrower that meets the requirements for a loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(F) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act;

(G) may receive expedited loss verification and loan processing, if the applicant is—

(i) a major source of employment in the disaster area (which shall be determined in the same manner as under section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B))); or

(ii) vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials); and

(H) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 205. HUBZONES.

(a) IN GENERAL.—Section 3(p) of the Small Business Act (15 U.S.C. 632(p)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking ''or'';

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(F) areas in which the President has declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) as a result of Hurricane Katrina of August 2005 or Hurricane Rita of September 2005, during the time period described in paragraph (8); or

''(G) catastrophic national disaster areas.'';

(2) in paragraph (4), by adding at the end the following:

''(E) CATASTROPHIC NATIONAL DISASTER AREA.—

''(i) IN GENERAL.—The term 'catastrophic national disaster area' means an area—

''(I) affected by a catastrophic national disaster declared under section 7(b)(11), during the time period described in clause (ii); and

''(II) for which the Administrator determines that designation as a HUBZone would substantially contribute to the reconstruction and recovery effort in that area.

''(ii) TIME PERIOD.—The time period for the purposes of clause (i)—

''(I) shall be the 2-year period beginning on the date that the applicable catastrophic national disaster was declared under section 7(b)(11); and

''(II) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the date described in subclause (I).''; and

(3) by adding at the end the following:

''(8) TIME PERIOD.—The time period for the purposes of paragraph (1)(F)—

''(A) shall be the 2-year period beginning on the later of the date of enactment of this paragraph and August 29, 2007; and

''(B) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the later of the date of enactment of this paragraph and August 29, 2007.''.

(b) TOLLING OF GRADUATION.—Section 7(j)(10)(C) of the Small Business Act (15 U.S.C. 636(j)(10)(C)) is amended by adding at the end the following:

''(iii)(I) For purposes of this subparagraph, if the Administrator designates an area as a HUBZone under section 3(p)(4)(E)(i)(II), the Administrator shall not count the time period described in subclause (II) of this clause for any small business concern—

''(aa) that is participating in any program, activity, or contract under section 8(a); and

''(bb) the principal place of business of which is located in that area.

''(II) The time period for purposes of subclause (I)—

''(aa) shall be the 2-year period beginning on the date that the applicable catastrophic national disaster was declared under section 7(b)(11); and

''(bb) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the date described in item (aa).''.

(c) STUDY OF HUBZONE DISASTER AREAS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives evaluating the designation by the Administrator of catastrophic national disaster areas, as that term is defined in section 3(p)(4)(E) of the Small Business Act (as added by this Act), as HUBZones.

TITLE III—DISASTER ASSISTANCE OVERSIGHT

SEC. 301. CONGRESSIONAL OVERSIGHT.

(a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—

(1) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall provide to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for that major disaster during the preceding month.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;

(E) an estimate of how long the available funding for such loans will last, based on the spending rate;

(F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);

(G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);

(H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and

(I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) DAILY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—

(1) IN GENERAL.—Each day during a disaster update period, excluding Federal holidays and weekends, the Administration shall provide to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.

(2) CONTENTS.—Each report under paragraph (1) shall include—

(A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;

(B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;

(C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;

(D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;

(E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans disbursed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully disbursed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.

(d) REPORT ON CONTRACTING.—

(1) IN GENERAL.—Not later than 6 months after the date on which the President declares a major disaster, and every 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of that major disaster;

(B) the total number of contracts awarded to small business concerns as a result of that major disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of that major disaster; and

(D) the total number of contracts awarded to local businesses as a result of that major disaster.

(e) REPORT ON LOAN APPROVAL RATE.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Accelerated Disaster Response Initiative of the Administration; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

TITLE IV—ENERGY EMERGENCIES

SEC. 401. FINDINGS.

Congress finds that—

(1) a significant number of small business concerns in the United States, nonfarm as well as agricultural producers, use heating oil, natural gas, propane, or kerosene to heat their facilities and for other purposes;

(2) a significant number of small business concerns in the United States sell, distribute, market, or otherwise engage in commerce directly related to heating oil, natural gas, propane, and kerosene; and

(3) significant increases in the price of heating oil, natural gas, propane, or kerosene—

(A) disproportionately harm small business concerns dependent on those fuels or that use, sell, or distribute those fuels in the ordinary course of their business, and can cause them substantial economic injury;

(B) can negatively affect the national economy and regional economies;

(C) have occurred in the winters of 1983 to 1984, 1988 to 1989, 1996 to 1997, 1999 to 2000, 2000 to 2001, and 2004 to 2005; and

(D) can be caused by a host of factors, including international conflicts, global or regional supply difficulties, weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to, and beyond the control of, those who own and operate small business concerns.

SEC. 402. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (11), as added by this Act, the following:

''(12) ENERGY EMERGENCIES.—

''(A) DEFINITIONS.—In this paragraph—

''(i) the term 'base price index' means the moving average of the closing unit price on the New York Mercantile Exchange for heating oil, natural gas, or propane for the 10 days, in each of the most recent 2 preceding years, which correspond to the trading days described in clause (ii);

''(ii) the term 'current price index' means the moving average of the closing unit price on the New York Mercantile Exchange, for the 10 most recent trading days, for contracts to purchase heating oil, natural gas, or propane during the subsequent calendar month, commonly known as the 'front month';

''(iii) the term 'heating fuel' means heating oil, natural gas, propane, or kerosene; and

''(iv) the term 'significant increase' means—

''(I) with respect to the price of heating oil, natural gas, or propane, any time the current price index exceeds the base price index by not less than 40 percent; and

''(II) with respect to the price of kerosene, any increase which the Administrator, in consultation with the Secretary of Energy, determines to be significant.

''(B) AUTHORIZATION.—The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a significant increase in the price of heating fuel occurring on or after October 1, 2004.

''(C) INTEREST RATE.—Any loan or guarantee extended under this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

''(D) MAXIMUM AMOUNT.—No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $1,500,000, unless such borrower constitutes a major source of employment in its surrounding area, as determined by the Administrator, in which case the Administrator, in the discretion of the Administrator, may waive the $1,500,000 limitation.

''(E) DECLARATIONS.—For purposes of assistance under this paragraph—

''(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

''(ii) if no declaration has been made under clause (i), the Governor of a State in which a significant increase in the price of heating fuel has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not otherwise available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

''(F) USE OF FUNDS.—Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, or fuel cells.''.

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting '', significant increase in the price of heating fuel'' after ''civil disorders''; and

(2) by inserting ''other'' before ''economic''.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Administrator under section 404.

SEC. 403. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking ''operations have'' and inserting ''operations (i) have''; and

(B) by inserting before '': *Provided*,'' the following: '', or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after October 1, 2004, as the result of a significant increase in energy costs or input costs from energy sources occurring on or after October 1, 2004, in connection with an energy emergency declared by the President or the Secretary'';

(2) in the third sentence, by inserting before the period at the end the following: ''or by an energy emergency declared by the President or the Secretary''; and

(3) in the fourth sentence—

(A) by inserting ''or energy emergency'' after ''natural disaster'' each place that term appears; and

(B) by inserting ''or declaration'' after ''emergency designation''.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) shall be available to carry out the amendments made by subsection (a) to meet the needs resulting from energy emergencies.

(c) EFFECTIVE PERIOD.—The amendments made by this section shall apply during the 4-year period beginning on the date on which guidelines are published by the Secretary of Agriculture under section 404.

SEC. 404. GUIDELINES AND RULEMAKING.

(a) GUIDELINES.—Not later than 30 days after the date of enactment of this Act, the Administrator and the Secretary of Agriculture shall each issue such guidelines as the Administrator or the Secretary, as applicable, determines to be necessary to carry out this title and the amendments made by this title.

(b) RULEMAKING.—Not later than 30 days after the date of enactment of this Act, the Administrator, after consultation with the Secretary of Energy, shall promulgate regulations specifying the method for determining a significant increase in the price of kerosene under section 7(b)(12)(A)(iv)(II) of the Small Business Act, as added by this Act.

SEC. 405. REPORTS.

(a) SMALL BUSINESS ADMINISTRATION.—Not later than 12 months after the date on which the Administrator issues guidelines under section 404, and annually thereafter until the date that is 12 months after the end of the effective period of section 7(b)(12) of the Small Business Act, as added by this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the assistance made available under section 7(b)(12) of the Small Business Act, as added by this Act, including—

(1) the number of small business concerns that applied for a loan under such section and the number of those that received such loans;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that received such loans are located;

(4) the type of heating fuel or energy that caused the significant increase in the cost for the participating small business concerns; and

(5) recommendations for ways to improve the assistance provided under such section 7(b)(12), if any.

(b) DEPARTMENT OF AGRICULTURE.—Not later than 12 months after the date on which the Secretary of Agriculture issues guidelines under section 404, and annually thereafter until the date that is 12 months after the end of the effective period of the amendments made to section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) by this title, the Secretary shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Small Business and the Committee on Agriculture of the House of Representatives, a report that—

(1) describes the effectiveness of the assistance made available under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); and

(2) contains recommendations for ways to improve the assistance provided under such section 321(a), if any.

SA 2651. Mr. REID (for Mr. BOND) proposed an amendment to amendment SA 2650 proposed by Mr. REID (for Mr. KERRY) to the bill S. 163, to improve the disaster loan program of the Small Business Administration, and for other purposes; as follows:

On page 50, strike line 15 and all that follows through page 60, line 3.

SA 2652. Mr. REID (for Mr. COBURN) proposed an amendment to amendment SA 2650 proposed by Mr. REID (for Mr. KERRY) to the bill S. 163, to improve the disaster loan program of the Small Business Administration, and for other purposes; as follows:

On page 24, line 2, strike ''shall'' and insert ''may''.

On page 24, strike line 9, and all that follows through page 28, line 5, and insert the following:

''(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is

below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

''(i) detailing staffing levels on that date;

''(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

''(iii) containing such additional information, as determined appropriate by the Administrator.''.

TITLE II—DISASTER LENDING

SEC. 201. CATASTROPHIC NATIONAL DISASTER DECLARATION.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (10), as added by this Act, the following:

''(11) CATASTROPHIC NATIONAL DISASTERS.—

''(A) IN GENERAL.—The President may make a catastrophic national disaster declaration in accordance with this paragraph.

''(B) PROMULGATION OF RULES.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator, with the concurrence of the Secretary of Homeland Security and the Administrator of the Federal Emergency Management Agency, shall promulgate regulations establishing a threshold for a catastrophic national disaster declaration.

''(ii) CONSIDERATIONS.—In promulgating the regulations required under clause (i), the Administrator shall establish a threshold that—

''(I) is similar in size and scope to the events relating to the terrorist attacks of September 11, 2001, and Hurricane Katrina of 2005;

''(II) requires that the President declares a major disaster before making a catastrophic national disaster declaration under this paragraph;

''(III) requires consideration of—

''(aa) the dollar amount per capita of damage to the State, its political subdivisions, or a region;

''(bb) the number of small business concerns damaged, physically or economically, as a direct result of the event;

''(cc) the number of individuals and households displaced from their predisaster residences by the event;

''(dd) the severity of the impact on employment rates in the State, its political subdivisions, or a region;

''(ee) the anticipated length and difficulty of the recovery process;

''(ff) whether the events leading to the relevant major disaster declaration are of an unusually large and calamitous nature that is orders of magnitude larger than for an average major disaster; and

''(gg) any other factor determined relevant by the Administrator.

''(C) AUTHORIZATION.—If the President makes a catastrophic national disaster declaration under this paragraph, the Administrator may make such loans under this paragraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to small business concerns located anywhere in the United States that are economically adversely impacted as a result of that catastrophic national disaster.

''(D) LOAN TERMS.—A loan under this paragraph shall be made on the same terms as a loan under paragraph (2).''.

On page 28, strike lines 15 through 18 and insert the following:

''(A) the term 'disaster area' means any area for which the President declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) that subsequently results in the President making a catastrophic national disaster declaration under subsection (b)(11);

On page 34, lines 8 and 9, strike ''a disaster declaration is made'' and inserting ''the President makes a catastrophic disaster declaration under paragraph (11) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act,''

On page 34, lines 20 and 21, strike ''under section 7(b) of the Small Business Act (15 U.S.C. 636(b))'' and insert ''under paragraph (11) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act''.

SA 2653. Mr. REID (for Mr. DODD (for himself and Mr. REED)) proposed an amendment to the bill H.R. 2358, to require the Secretary of the Treasury to mint and issue coins in commemoration of Native Americans and the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States, 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 ''Native American $1 Coin Act''.

SEC. 2. NATIVE AMERICAN $1 COIN PROGRAM.

Section 5112 of title 31, United States Code, is amended by adding at the end the following:

''(r) REDESIGN AND ISSUANCE OF CIRCULATING $1 COINS HONORING NATIVE AMERICANS AND THE IMPORTANT CONTRIBUTIONS MADE BY INDIAN TRIBES AND INDIVIDUAL NATIVE AMERICANS IN UNITED STATES HISTORY.—

''(1) REDESIGN BEGINNING IN 2008.—

''(A) IN GENERAL.—Effective beginning January 1, 2008, notwithstanding subsection (d), in addition to the coins to be issued pursuant to subsection (n), and in accordance with this subsection, the Secretary shall mint and issue $1 coins that—

''(i) have as the designs on the obverse the so-called 'Sacagawea design'; and

''(ii) have a design on the reverse selected in accordance with paragraph (2)(A), subject to paragraph (3)(A).

''(B) DELAYED DATE.—If the date of the enactment of the Native American $1 Coin Act is after August 25, 2007, subparagraph (A) shall be applied by substituting '2009' for '2008'.

''(2) DESIGN REQUIREMENTS.—The $1 coins issued in accordance with paragraph (1) shall meet the following design requirements:

''(A) COIN REVERSE.—The design on the reverse shall bear—

''(i) images celebrating the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States;

''(ii) the inscription '$1' ; and

''(iii) the inscription 'United States of America'.

''(B) COIN OBVERSE.—The design on the obverse shall—

''(i) be chosen by the Secretary, after consultation with the Commission of Fine Arts and review by the Citizens Coinage Advisory Committee; and

''(ii) contain the so-called 'Sacagawea design' and the inscription 'Liberty'.

''(C) EDGE-INCUSED INSCRIPTIONS.—

''(i) IN GENERAL.—The inscription of the year of minting and issuance of the coin and the inscriptions 'E Pluribus Unum' and 'In God We Trust' shall be edge-incused into the coin.

''(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

''(D) REVERSE DESIGN SELECTION.—The designs selected for the reverse of the coins described under this subsection—

''(i) shall be chosen by the Secretary after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, the Commission of Fine Arts, and the National Congress of American Indians;

''(ii) shall be reviewed by the Citizens Coinage Advisory Committee;

''(iii) may depict individuals and events such as—

''(I) the creation of Cherokee written language;

''(II) the Iroquois Confederacy;

''(III) Wampanoag Chief Massasoit;

''(IV) the 'Pueblo Revolt';

''(V) Olympian Jim Thorpe;

''(VI) Ely S. Parker, a general on the staff of General Ulysses S. Grant and later head of the Bureau of Indian Affairs; and

''(VII) code talkers who served the United States Armed Forces during World War I and World War II; and

''(iv) in the case of a design depicting the contribution of an individual Native American to the development of the United States and the history of the United States, shall not depict the individual in a size such that the coin could be considered to be a '2-headed' coin.

''(3) ISSUANCE OF COINS COMMEMORATING 1 NATIVE AMERICAN EVENT DURING EACH YEAR.—

''(A) IN GENERAL.—Each design for the reverse of the $1 coins issued during each year shall be emblematic of 1 important Native American or Native American contribution each year.

''(B) ISSUANCE PERIOD.—Each $1 coin minted with a design on the reverse in accordance with this subsection for any year shall be issued during the 1-year period beginning on January 1 of that year and shall be available throughout the entire 1-year period.

''(C) ORDER OF ISSUANCE OF DESIGNS.—Each coin issued under this subsection commemorating Native Americans and their contributions—

''(i) shall be issued, to the maximum extent practicable, in the chronological order in which the Native Americans lived or the events occurred, until the termination of the coin program described in subsection (n); and

''(ii) thereafter shall be issued in any order determined to be appropriate by the Secretary, after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, and the National Congress of American Indians.

''(4) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of $1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

''(5) QUANTITY.—The number of $1 coins minted and issued in a year with the Sacagawea-design on the obverse shall be not less than 20 percent of the total number of $1 coins minted and issued in such year.''.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 5112(n)(1) of title 31, United States Code, is amended—

(1) by striking the paragraph designation and heading and all that follows through ''Notwithstanding subsection (d)'' and inserting the following:

''(1) REDESIGN BEGINNING IN 2007.—Notwithstanding subsection (d)'';

(2) by striking subparagraph (B); and

(3) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately.

SEC. 4. REMOVAL OF BARRIERS TO CIRCULATION OF $1 COIN.

(a) IN GENERAL.—In order to remove barriers to circulation, the Secretary of the Treasury shall carry out an aggressive, cost-effective, continuing campaign to encourage commercial enterprises to accept and dispense $1 coins that have as designs on the obverse the so-called ''Sacagawea design''.

(b) REPORT.—The Secretary of the Treasury shall submit to Congress an annual report on the success of the efforts described in subsection (a).

SA 2654. Mr. COLEMAN (for Mr. BOND (for himself, Mr. COLEMAN, and Ms. KLOBUCHAR)) proposed an amendment to the bill H.R. 3311, Official Title Not Available; as follows:

In section 1112(b)(1) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (as added by section 3), strike subparagraph (B) and insert the following:

''(B) use not to exceed $5,000,000 of the funds made available for fiscal year 2007 for Federal Transit Administration Discretionary Programs, Bus and Bus Facilities (without any local matching funds requirement) for operating expenses of the Minnesota State department of transportation for actual and necessary costs of maintenance and operation, less the amount of fares earned, which are provided by the Metropolitan Council (of Minnesota) as a temporary substitute for highway traffic service following the collapse of the Interstate I–35W bridge in Minneapolis, Minnesota, on August 1, 2007, until highway traffic service is restored on such bridge.

SA 2655. Mr. REID (for Mr. KYL (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 849, to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly to as the Freedom of Information Act), and for other purposes; as follows:

The bill is amended as follows:

(a) NEWS-MEDIA STATUS.—At page 4, strike lines 4 though 15 and insert:

''The term ''a representative of the news media'' means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of ''news'') who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a newsmedia entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.''.

(b) ATTORNEYS' FEES.—At page 5, strike lines 1 through 7 and insert:

''(1) a judicial order, or an enforceable written agreement or consent decree; or

(II) a voluntary or unilateral change in position by the agency, provided that the complainant's claim is not insubstantial.''.

(c) COMMENCEMENT OF 20-DAY PERIOD AND TOLLING.—At page 6, lines 1 through 7 and insert:

''(1) IN GENERAL.—Section 552(a)(6)(A)(i) of title 5, United States Code, is amended by striking ''determination;'' and inserting:

''determination. The 20-day period shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event no later than ten days after the request is first received by any component of the agency that is designated in the agency's FOIA regulations to receive FOIA requests. The 20-day period shall not be tolled by the agency except (I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the FOIA requester or (II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period;''.

(d) COMPLIANCE WITH TIME LIMITS.—At page 6, strike line 11 and all that follows through page 7, line 4, and insert:

''(b) COMPLIANCE WITH TIME LIMITS—

(l)(A) Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end the following:

''(viii) An agency shall not assess search fees under this subparagraph if the agency fails to comply with any time limit under paragraph (6), provided that no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.''.

(B) Section 552(a)(6)(B)(ii) of title 5, United States Code, is amended by inserting between the first and second sentences the following:

''To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency.''

(e) STATUS OF REQUESTS.—At page 7:

(1) strike lines 17 through 22 and insert:

''(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and''.

(2) at line 23, strike ''(C)'' and insert ''(B)''.

(f) CLEAR STATEMENT FOR EXEMPTIONS.—At page 8, strike line 19 and all that follows through the end of the section and insert:

''(A) if enacted prior to the date of enactment of the OPEN Government Act of 2007, requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld; or

''(B) if enacted after the date of enactment of the OPEN Government Act of 2007, specifically cites to the Freedom of Information Act.''.

(g) PRIVATE RECORDS MANAGEMENT.—At page 13, lines 14 through 15, strike ''a contract between the agency and the entity.'' and insert ''Government contract, for the purposes of records management.''.

(h) POLICY REVIEWS, AUDITS, AND CHIEF FOIA OFFICERS AND PUBLIC LIAISONS.—Strike section 11 and insert the following:

''SEC. 11. OFFICE OF GOVERNMENT INFORMATION SERVICES.

''(a) IN GENERAL.—Section 552 of title 5, United States Code, is amended by adding at the end the following:

''(h) There is established the Office of Government Information Services within the National Archives and Records Administration. The Office of Government Information Services shall review policies and procedures of administrative agencies under section 552, shall review compliance with section 552 by administrative agencies, and shall recommend policy changes to Congress and the President to improve the administration of section 552. The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under section 552 and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

''(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of section 552 and issue reports detailing the results of such audits.

''(j) Each agency shall—

''(1) Designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

GENERAL DUTIES.—The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

''(A) have agency-wide responsibility for efficient and appropriate compliance with the FOIA;

''(B) monitor FOIA implementation throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing the FOIA;

''(C) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of the FOIA;

''(D) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing the FOIA; and

''(E) facilitate public understanding of the purposes of the FOIA's statutory exemptions by including concise descriptions of the exemptions in both the agency's FOIA handbook issued under section 552(g) of title 5, United States Code, and the agency's annual FOIA report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply.''

''(2) Designate one or more FOIA Public Liaisons who shall be appointed by the Chief FOIA Officer.

GENERAL DUTIES.—FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center staff. FOIA Public Liaisons

shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.''

''(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.''.

(i) CRITICAL INFRASTRUCTURE INFORMATION.—Strike section 12 of the bill.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources, Subcommittee on Public Lands and Forests.

The hearing will be held on September 20, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on several bills, including: S. 1377, to direct the Secretary of the Interior to convey to the City of Henderson, Nevada, certain Federal land located in the City, and for other purposes; S. 1433, to amend the Alaska National Interest Lands Conservation Act to provide competitive status to certain Federal employees in the State of Alaska; S. 1608 and H.R. 815, to provide for the! conveyance of certain land in Clark County, Nevada, for use by the Nevada National Guard S. 1740, to amend the Act of February 22, 1889, and the Act of July 2, 1862, to provide for the management of public land trust funds in the State of North Dakota; S. 1802, to adjust the boundaries of the Frank Church River of No Return Wilderness in the State of Idaho; S. 1803, to authorize the exchange of certain land located in the State of Idaho, and for other purposes; S. 1939, to provide for the conveyance of certain land in the Santa Fe National Forest, New Mexico; and S. 1940, to reauthorize the Rio Puerco Watershed Management Program, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by email to rachel_pasternack@energy. senate.gov.

For further information, please contact David Brooks or Rachel Pasternack.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DORGAN. Mr. President, I ask unanimous consent that the Commiitee on Armed Services be authorized to meet during the session of the Senate on Friday, August 3, 2007, at 8 a.m. in executive session to receive information relating to the treatment of detainees.

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

SMALL BUSINESS TAX RELIEF ACT OF 2007

On Thursday, August 2, 2007, the Senate passed H.R. 976, as amended, as follows:

H.R. 976

Resolved, That the bill from the House of Representatives (H.R. 976) entitled ''An Act to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Children's Health Insurance Program Reauthorization Act of 2007''.

(b) AMENDMENTS TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) REFERENCES TO MEDICAID; CHIP; SECRETARY.—In this Act:

(1) CHIP.—The term ''CHIP'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(2) MEDICAID.—The term ''Medicaid'' means the program for medical assistance established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(d) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—FINANCING OF CHIP

SEC. 101. EXTENSION OF CHIP.

Section 2104(a) (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(11) for fiscal year 2008, $9,125,000,000;
''(12) for fiscal year 2009, $10,675,000,000;
''(13) for fiscal year 2010, $11,850,000,000;
''(14) for fiscal year 2011, $13,750,000,000; and
''(15) for fiscal year 2012, for purposes of making 2 semi-annual allotments—
''(A) $1,750,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012, and
''(B) $1,750,000,000 for the period beginning on April 1, 2012, and ending on September 30, 2012.''.

SEC. 102. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Section 2104 (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(i) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2008 THROUGH 2012.—

''(1) COMPUTATION OF ALLOTMENT.—

''(A) IN GENERAL.—Subject to the succeeding paragraphs of this subsection, the Secretary shall for each of fiscal years 2008 through 2012 allot to each subsection (b) State from the available national allotment an amount equal to 110 percent of—

''(i) in the case of fiscal year 2008, the highest of the amounts determined under paragraph (2);

''(ii) in the case of each of fiscal years 2009 through 2011, the Federal share of the expenditures determined under subparagraph (B) for the fiscal year; and

''(iii) beginning with fiscal year 2012, subject to subparagraph (E), each semi-annual allotment determined under subparagraph (D).

''(B) PROJECTED STATE EXPENDITURES FOR THE FISCAL YEAR.—For purposes of subparagraphs (A)(ii) and (D), the expenditures determined under this subparagraph for a fiscal year are the projected expenditures under the State child health plan for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year).

''(C) AVAILABLE NATIONAL ALLOTMENT.—For purposes of this subsection, the term 'available national allotment' means, with respect to any fiscal year, the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of the allotments made for the fiscal year under subsection (c). Subject to paragraph (3)(B), the available national allotment with respect to the amount available under subsection (a)(15)(A) for fiscal year 2012 shall be increased by the amount of the appropriation for the period beginning on October 1 and ending on March 31 of such fiscal year under section 103 of the Children's Health Insurance Program Reauthorization Act of 2007.

''(D) SEMI-ANNUAL ALLOTMENTS.—For purposes of subparagraph (A)(iii), the semi-annual allotments determined under this paragraph with respect to a fiscal year are as follows:

''(i) For the period beginning on October 1 and ending on March 31 of the fiscal year, the Federal share of the portion of the expenditures determined under subparagraph (B) for the fiscal year which are allocable to such period.

''(ii) For the period beginning on April 1 and ending on September 30 of the fiscal year, the Federal share of the portion of the expenditures determined under subparagraph (B) for the fiscal year which are allocable to such period.

''(E) AVAILABILITY.—Each semi-annual allotment made under subparagraph (A)(iii) shall remain available for expenditure under this title for periods after the period specified in subparagraph (D) for purposes of determining the allotment in the same manner as the allotment would have been available for expenditure if made for an entire fiscal year.

''(2) SPECIAL RULE FOR FISCAL YEAR 2008.—

''(A) IN GENERAL.—For purposes of paragraph (1)(A)(i), the amounts determined under this paragraph for fiscal year 2008 are as follows:

''(i) The total Federal payments to the State under this title for fiscal year 2007, multiplied by the annual adjustment determined under subparagraph (B) for fiscal year 2008.

''(ii) The Federal share of the amount allotted to the State for fiscal year 2007 under subsection (b), multiplied by the annual adjustment determined under subparagraph (B) for fiscal year 2008.

''(iii) Only in the case of—

''(I) a State that received a payment, redistribution, or allotment under any of paragraphs (1), (2), or (4) of subsection (h), the amount of the projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary;

''(II) a State whose projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the May 2006 estimates certified by the State to the Secretary, were at least $95,000,000 but not more than $96,000,000 higher than the projected total Federal payments to the State under this title for fiscal year 2007 on the basis of the November 2006 estimates, the amount of the projected total Federal payments to the State under this title for fiscal year 2007 on the basis of the May 2006 estimates; or

''(III) a State whose projected total Federal payments under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary, exceeded all amounts available to the State for expenditure for fiscal year 2007 (including any amounts paid, allotted, or redistributed to the State in prior fiscal years), the amount of the projected total Federal payments to the State under this title for fiscal year 2007, as determined on the basis of the November 2006 estimates certified by the State to the Secretary,

multiplied by the annual adjustment determined under subparagraph (B) for fiscal year 2008.

''(iv) The projected total Federal payments to the State under this title for fiscal year 2008, as determined on the basis of the August 2007 projections certified by the State to the Secretary by not later than September 30, 2007.

''(B) ANNUAL ADJUSTMENT FOR HEALTH CARE COST GROWTH AND CHILD POPULATION GROWTH.—The annual adjustment determined under this subparagraph for a fiscal year with respect to a State is equal to the product of the amounts determined under clauses (i) and (ii):

''(i) PER CAPITA HEALTH CARE GROWTH.—1 plus the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the fiscal year involved over the preceding calendar year, as most recently published by the Secretary.

''(ii) CHILD POPULATION GROWTH.—1.01 plus the percentage change in the population of children under 19 years of age in the State from July 1 of the fiscal year preceding the fiscal year involved to July 1 of the fiscal year involved, as determined by the Secretary based on the most timely and accurate published estimates of the Bureau of the Census.

''(C) DEFINITION.—For purposes of subparagraph (B), the term 'fiscal year involved' means the fiscal year for which an allotment under this subsection is being determined.

''(D) PRORATION RULE.—If, after the application of this paragraph without regard to this subparagraph, the sum of the State allotments determined under this paragraph for fiscal year 2008 exceeds the available national allotment for fiscal year 2008, the Secretary shall reduce each such allotment on a proportional basis.

''(3) ALTERNATIVE ALLOTMENTS FOR FISCAL YEARS 2009 THROUGH 2012.—

''(A) IN GENERAL.—If the sum of the State allotments determined under paragraph (1)(A)(ii) for any of fiscal years 2009 through 2011 exceeds the available national allotment for the fiscal year, the Secretary shall allot to each subsection (b) State from the available national allotment for the fiscal year an amount equal to the product of—

''(i) the available national allotment for the fiscal year; and

''(ii) the percentage equal to the sum of the State allotment factors for the fiscal year determined under paragraph (4) with respect to the State.

''(B) SPECIAL RULES BEGINNING IN FISCAL YEAR 2012.—Beginning in fiscal year 2012—

''(i) this paragraph shall be applied separately with respect to each of the periods described in clauses (i) and (ii) of paragraph (1)(D) and the available national allotment for each such period shall be the amount appropriated for such period (rather than the amount appropriated for the entire fiscal year), reduced by the amount of the allotments made for the fiscal year under subsection (c) for each such period, and

''(ii) if—

''(I) the sum of the State allotments determined under paragraph (1)(A)(iii) for either such period exceeds the amount of such available national allotment for such period, the Secretary shall make the allotment for each State for such period in the same manner as under subparagraph (A), and

''(II) the amount of such available national allotment for either such period exceeds the sum of the State allotments determined under paragraph (1)(A)(iii) for such period, the Secretary shall increase the allotment for each State for such period by the amount that bears the same ratio to such excess as the State's allotment determined under paragraph (1)(A)(iii) for such period (without regard to this subparagraph) bears to the sum of such allotments for all States.

''(4) WEIGHTED FACTORS.—

''(A) FACTORS DESCRIBED.—For purposes of paragraph (3), the factors described in this subparagraph are the following:

''(i) PROJECTED STATE EXPENDITURES FOR THE FISCAL YEAR.—The ratio of the projected expenditures under the State child health plan for the fiscal year (as certified by the State to the Secretary by not later than August 31 of the preceding fiscal year) to the sum of the projected expenditures under all such plans for all subsection (b) States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) NUMBER OF LOW-INCOME CHILDREN IN THE STATE.—The ratio of the number of low-income children in the State, as determined on the basis of the most timely and accurate published estimates of the Bureau of the Census, to the sum of the number of low-income children so determined for all subsection (b) States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) PROJECTED STATE EXPENDITURES FOR THE PRECEDING FISCAL YEAR.—The ratio of the projected expenditures under the State child health plan for the preceding fiscal year (as determined on the basis of the projections certified by the State to the Secretary for November of the fiscal year), to the sum of the projected expenditures under all such plans for all subsection (b) States for such preceding fiscal year (as so determined), multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) ACTUAL STATE EXPENDITURES FOR THE SECOND PRECEDING FISCAL YEAR.—The ratio of the actual expenditures under the State child health plan for the second preceding fiscal year, as determined by the Secretary on the basis of expenditure data reported by States on CMS Form 64 or CMS Form 21, to such sum of the actual expenditures under all such plans for all subsection (b) States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2009 through 2012, the applicable weights assigned under this subparagraph are the following:

''(i) With respect to the factor described in subparagraph (A)(i), a weight of 75 percent for each such fiscal year.

''(ii) With respect to the factor described in subparagraph (A)(ii), a weight of 12½ percent for each such fiscal year.

''(iii) With respect to the factor described in subparagraph (A)(iii), a weight of 7½ percent for each such fiscal year.

''(iv) With respect to the factor described in subparagraph (A)(iv), a weight of 5 percent for each such fiscal year.

''(5) DEMONSTRATION OF NEED FOR INCREASED ALLOTMENT BASED ON PROJECTED STATE EXPENDITURES EXCEEDING 10 PERCENT OF THE PRECEDING FISCAL YEAR ALLOTMENT.—

''(A) IN GENERAL.—If the projected expenditures under the State child health plan described in paragraph (1)(B) for any of fiscal years 2009 through 2012 are at least 10 percent more than the allotment determined for the State for the preceding fiscal year (determined without regard to paragraph (2)(D) or paragraph (3)), and, during the preceding fiscal year, the State did not receive approval for a State plan amendment or waiver to expand coverage under the State child health plan or did not receive a CHIP contingency fund payment under subsection (k)—

''(i) the State shall submit to the Secretary, by not later than August 31 of the preceding fiscal year, information relating to the factors that contributed to the need for the increase in the State's allotment for the fiscal year, as well as any other additional information that the Secretary may require for the State to demonstrate the need for the increase in the State's allotment for the fiscal year;

''(ii) the Secretary shall—

''(I) review the information submitted under clause (i);

''(II) notify the State in writing within 60 days after receipt of the information that—

''(aa) the projected expenditures under the State child health plan are approved or disapproved (and if disapproved, the reasons for disapproval); or

''(bb) specified additional information is needed; and

''(III) if the Secretary disapproved the projected expenditures or determined additional information is needed, provide the State with a reasonable opportunity to submit additional information to demonstrate the need for the increase in the State's allotment for the fiscal year.

''(B) PROVISIONAL AND FINAL ALLOTMENT.—In the case of a State described in subparagraph (A) for which the Secretary has not determined by September 30 of a fiscal year whether the State has demonstrated the need for the increase in the State's allotment for the succeeding fiscal year, the Secretary shall provide the State with a provisional allotment for the fiscal year equal to 110 percent of the allotment determined for the State under this subsection for the preceding fiscal year (determined without regard to paragraph (2)(D) or paragraph (3)), and may, not later than November 30 of the fiscal year, adjust the State's allotment (and the allotments of other subsection (b) States), as necessary (and, if applicable, subject to paragraph (3)), on the basis of information submitted by the State in accordance with subparagraph (A).

''(6) SPECIAL RULES.—

''(A) DEADLINE AND DATA FOR DETERMINING FISCAL YEAR 2008 ALLOTMENTS.—In computing the amounts under paragraph (2)(A) and subsection (c)(5)(A) that determine the allotments to subsection (b) States and territories for fiscal year 2008, the Secretary shall use the most recent data available to the Secretary before the start of that fiscal year. The Secretary may adjust such amounts and allotments, as necessary, on the basis of the expenditure data for the prior year reported by States on CMS Form 64 or CMS Form 21 not later than November 30, 2007, but in no case shall the Secretary adjust the allotments provided under paragraph (2)(A) or subsection (c)(5)(A) for fiscal year 2008 after December 31, 2007.

''(B) INCLUSION OF CERTAIN EXPENDITURES.—

''(i) PROJECTED EXPENDITURES OF QUALIFYING STATES.—Payments made or projected to be made to a qualifying State described in paragraph (2) of section 2105(g) for expenditures described in paragraph (1)(B)(ii) or (4)(B) of that section shall be included for purposes of determining the projected expenditures described in paragraph (1)(B) with respect to the allotments determined for each of fiscal years 2009 through 2012 and for purposes of determining the amounts described in clauses (i) and (iv) of paragraph (2)(A) with respect to the allotments determined for fiscal year 2008.

''(ii) PROJECTED EXPENDITURES UNDER BLOCK GRANT SET-ASIDES FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS.—Payments projected to be made to a State under subsection (a) or (b) of section 2111 shall be included for purposes of determining the projected expenditures described in paragraph (1)(B) with respect to the allotments determined for each of fiscal years 2009 through 2012 (to the extent such payments are permitted under such section), including for purposes of allocating such expenditures for purposes of clauses (i) and (ii) of paragraph (1)(D).

''(7) SUBSECTION (b) STATE.—In this subsection, the term 'subsection (b) State' means 1 of the 50 States or the District of Columbia.''.

(b) CONFORMING AMENDMENTS.—Section 2104 (42 U.S.C. 1397dd) is amended—

(1) in subsection (a), by striking ''subsection (d)'' and inserting ''subsections (d), (h), and (i)'';

(2) in subsection (b)(1), by striking ''subsection (d)'' and inserting ''subsections (d), (h), and (i)''; and

(3) in subsection (c)(1), by striking ''subsection (d)'' and inserting ''subsections (d), (h), and (i)''.

SEC. 103. ONE-TIME APPROPRIATION.

There is appropriated to the Secretary, out of any money in the Treasury not otherwise appropriated, $12,500,000,000 to accompany the allotment made for the period beginning on October 1, 2011, and ending on March 31, 2012, under section 2104(a)(15)(A) of the Social Security Act (42 U.S.C. 1397dd(a)(15)(A)) (as added by section 101), to remain available until expended. Such amount shall be used to provide allotments to States under subsections (c)(5) and (i) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for the first 6 months of fiscal year 2012 in the same manner as allotments are provided under subsection (a)(15)(A) of such section and subject to the same terms and conditions as apply to the allotments provided from such subsection (a)(15)(A).

SEC. 104. IMPROVING FUNDING FOR THE TERRITORIES UNDER CHIP AND MEDICAID.

(a) UPDATE OF CHIP ALLOTMENTS.—Section 2104(c) (42 U.S.C. 1397dd(c)) is amended—

(1) in paragraph (1), by inserting ''and paragraphs (5) and (6)'' after ''and (i)''; and

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

''(5) ANNUAL ALLOTMENTS FOR TERRITORIES BEGINNING WITH FISCAL YEAR 2008.—Of the total allotment amount appropriated under subsection (a) for a fiscal year beginning with fiscal year 2008, the Secretary shall allot to each of the commonwealths and territories described in paragraph (3) the following:

''(A) FISCAL YEAR 2008.—For fiscal year 2008, the highest amount of Federal payments to the commonwealth or territory under this title for any fiscal year occurring during the period of fiscal years 1998 through 2007, multiplied by the annual adjustment determined under subsection (i)(2)(B) for fiscal year 2008, except that clause (ii) thereof shall be applied by substituting 'the United States' for 'the State'.

''(B) FISCAL YEARS 2009 THROUGH 2012.—

''(i) IN GENERAL.—For each of fiscal years 2009 through 2012, except as provided in clause (ii), the amount determined under this paragraph for the preceding fiscal year multiplied by the annual adjustment determined under subsection (i)(2)(B) for the fiscal year, except that clause (ii) thereof shall be applied by substituting 'the United States' for 'the State'.

''(ii) SPECIAL RULE FOR FISCAL YEAR 2012.—In the case of fiscal year 2012—

''(I) 89 percent of the amount allocated to the commonwealth or territory for such fiscal year (without regard to this subclause) shall be allocated for the period beginning on October 1, 2011, and ending on March 31, 2012, and

''(II) 11 percent of such amount shall be allocated for the period beginning on April 1, 2012, and ending on September 30, 2012.''.

(b) REMOVAL OF FEDERAL MATCHING PAYMENTS FOR DATA REPORTING SYSTEMS FROM THE OVERALL LIMIT ON PAYMENTS TO TERRITORIES UNDER TITLE XIX.—Section 1108(g) (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(4) EXCLUSION OF CERTAIN EXPENDITURES FROM PAYMENT LIMITS.—With respect to fiscal years beginning with fiscal year 2008, if Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa qualify for a payment under subparagraph (A)(i), (B), or (F) of section 1903(a)(3) for a calendar quarter of such fiscal year, the payment shall not be taken into account in applying subsection (f) (as increased in accordance with paragraphs (1), (2), and (3) of this subsection) to such commonwealth or territory for such fiscal year.''.

(c) GAO STUDY AND REPORT.—Not later than September 30, 2009, the Comptroller General of the United States shall submit a report to the appropriate committees of Congress regarding Federal funding under Medicaid and CHIP for Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. The report shall include the following:

(1) An analysis of all relevant factors with respect to—

(A) eligible Medicaid and CHIP populations in such commonwealths and territories;

(B) historical and projected spending needs of such commonwealths and territories and the ability of capped funding streams to respond to those spending needs;

(C) the extent to which Federal poverty guidelines are used by such commonwealths and territories to determine Medicaid and CHIP eligibility; and

(D) the extent to which such commonwealths and territories participate in data collection and reporting related to Medicaid and CHIP, including an analysis of territory participation in the Current Population Survey versus the American Community Survey.

(2) Recommendations for improving Federal funding under Medicaid and CHIP for such commonwealths and territories.

SEC. 105. INCENTIVE BONUSES FOR STATES.

(a) IN GENERAL.—Section 2104 (42 U.S.C. 1397dd), as amended by section 102, is amended by adding at the end the following new subsection:

''(j) INCENTIVE BONUSES.—

''(1) ESTABLISHMENT OF INCENTIVE POOL FROM UNOBLIGATED NATIONAL ALLOTMENT AND UNEXPENDED STATE ALLOTMENTS.—

''(A) IN GENERAL.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'CHIP Incentive Bonuses Pool' (in this subsection referred to as the 'Incentive Pool'). Amounts in the Incentive Pool are authorized to be appropriated for payments under this subsection and shall remain available until expended.

''(B) DEPOSITS THROUGH INITIAL APPROPRIATION AND TRANSFERS OF FUNDS.—

''(i) INITIAL APPROPRIATION.—There is appropriated to the Incentive Pool, out of any money in the Treasury not otherwise appropriated, $3,000,000,000 for fiscal year 2008.

''(ii) TRANSFERS.—Notwithstanding any other provision of law, the following amounts are

hereby appropriated or transferred to, deposited in, and made available for expenditure from the Incentive Pool on the following dates:

''(I) UNEXPENDED FISCAL YEAR 2006 AND 2007 ALLOTMENTS.—On December 31, 2007, the sum for all States of the excess (if any) for each State of—

''(aa) the aggregate allotments provided for the State under subsection (b) or (c) for fiscal years 2006 and 2007 that are not expended by September 30, 2007, over

''(bb) an amount equal to 50 percent of the allotment provided for the State under subsection (c) or (i) for fiscal year 2008 (as determined in accordance with subsection (i)(6)).

''(II) UNOBLIGATED NATIONAL ALLOTMENT.—

''(aa) FISCAL YEARS 2008 THROUGH 2011.—On December 31 of fiscal year 2008, and on December 31 of each succeeding fiscal year through fiscal year 2011, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (c) or (i) for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 2111 for such fiscal year.

''(bb) FIRST HALF OF FISCAL YEAR 2012.—On December 31 of fiscal year 2012, the portion, if any, of the sum of the amounts appropriated under subsection (a)(15)(A) and under section 103 of the Children's Health Insurance Program Reauthorization Act of 2007 for the period beginning on October 1, 2011, and ending on March 31, 2012, that is unobligated for allotment to a State under subsection (c) or (i) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(cc) SECOND HALF OF FISCAL YEAR 2012.—On June 30 of fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a)(15)(B) for the period beginning on April 1, 2012, and ending on September 30, 2012, that is unobligated for allotment to a State under subsection (c) or (i) for such fiscal year or set aside under subsection (b)(2) of section 2111 for such fiscal year.

''(III) PERCENTAGE OF STATE ALLOTMENTS THAT ARE UNEXPENDED BY THE END OF THE FIRST YEAR OF AVAILABILITY BEGINNING WITH THE FISCAL YEAR 2009 ALLOTMENTS.—On October 1 of each of fiscal years 2009 through 2012, the sum for all States for such fiscal year (the 'current fiscal year') of the excess (if any) for each State of—

''(aa) the allotment made for the State under subsection (b), (c), or (i) for the fiscal year preceding the current fiscal year (reduced by any amounts set aside under section 2111(a)(3)) that is not expended by the end of such preceding fiscal year, over

''(bb) an amount equal to the applicable percentage (for the fiscal year) of the allotment made for the State under subsection (b), (c), or (i) (as so reduced) for such preceding fiscal year.

For purposes of item (bb), the applicable percentage is 20 percent for fiscal year 2009, and 10 percent for each of fiscal years 2010, 2011, and 2012.

''(IV) REMAINDER OF STATE ALLOTMENTS THAT ARE UNEXPENDED BY THE END OF THE PERIOD OF AVAILABILITY BEGINNING WITH THE FISCAL YEAR 2006 ALLOTMENTS.—On October 1 of each of fiscal years 2009 through 2012, the total amount of allotments made to States under subsection (b), (c), or (i) for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006 allotments) and remaining after the application of subclause (III) that are not expended by September 30 of the preceding fiscal year.

''(V) UNEXPENDED TRANSITIONAL COVERAGE BLOCK GRANT FOR NONPREGNANT CHILDLESS ADULTS.—On October 1, 2009, any amounts set aside under section 2111(a)(3) that are not expended by September 30, 2009.

''(VI) EXCESS CHIP CONTINGENCY FUNDS.—

''(aa) AMOUNTS IN EXCESS OF THE AGGREGATE CAP.—On October 1 of each of fiscal years 2010 through 2012, any amount in excess of the aggregate cap applicable to the CHIP Contingency Fund for the fiscal year under subsection (k)(2)(B).

''(bb) UNEXPENDED CHIP CONTINGENCY FUND PAYMENTS.—On October 1 of each of fiscal years 2010 through 2012, any portion of a CHIP Contingency Fund payment made to a State that remains unexpended at the end of the period for which the payment is available for expenditure under subsection (e)(3).

''(VII) EXTENSION OF AVAILABILITY FOR PORTION OF UNEXPENDED STATE ALLOTMENTS.—The portion of the allotment made to a State for a fiscal year that is not transferred to the Incentive Pool under subclause (I) or (III) shall remain available for expenditure by the State only during the fiscal year in which such transfer occurs, in accordance with subclause (IV) and subsection (e)(4).

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Incentive Pool as are not immediately required for payments from the Pool. The income derived from these investments constitutes a part of the Incentive Pool.

''(2) PAYMENTS TO STATES INCREASING ENROLLMENT.—

''(A) IN GENERAL.—Subject to paragraph (3)(D), with respect to each of fiscal years 2009 through 2012, the Secretary shall make payments to States from the Incentive Pool determined under subparagraph (B).

''(B) DETERMINATION OF PAYMENTS.—If, for any coverage period ending in a fiscal year ending after September 30, 2008, the average monthly enrollment of children in the State plan under title XIX exceeds the baseline monthly average for such period, the payment made for the fiscal year shall be equal to the applicable amount determined under subparagraph (C).

''(C) APPLICABLE AMOUNT.—For purposes of subparagraph (B), the applicable amount is the product determined in accordance with the following:

''(i) If such excess with respect to the number of individuals who are enrolled in the State plan under title XIX does not exceed 2 percent, the product of $75 and the number of such individuals included in such excess.

''(ii) If such excess with respect to the number of individuals who are enrolled in the State plan under title XIX exceeds 2, but does not exceed 5 percent, the product of $300 and the number of such individuals included in such excess, less the amount of such excess calculated in clause (i).

''(iii) If such excess with respect to the number of individuals who are enrolled in the State plan under title XIX exceeds 5 percent, the product of $625 and the number of such individuals included in such excess, less the sum of the amount of such excess calculated in clauses (i) and (ii).

''(D) INDEXING OF DOLLAR AMOUNTS.—For each coverage period ending in a fiscal year ending after September 30, 2009, the dollar amounts specified in subparagraph (C) shall be increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year beginning on January 1 of the coverage period over the preceding coverage period, as most recently published by the Secretary before the beginning of the coverage period involved.

''(3) RULES RELATING TO ENROLLMENT INCREASES.—For purposes of paragraph (2)(B)—

''(A) BASELINE MONTHLY AVERAGE.—Except as provided in subparagraph (C), the baseline monthly average for any fiscal year for a State is equal to—

''(i) the baseline monthly average for the preceding fiscal year; multiplied by

''(ii) the sum of 1 plus the sum of—

''(I) 0.01; and

''(II) the percentage increase in the population of low-income children in the State from the preceding fiscal year to the fiscal year involved, as determined by the Secretary based on the most timely and accurate published estimates of the Bureau of the Census before the beginning of the fiscal year involved.

''(B) COVERAGE PERIOD.—Except as provided in subparagraph (C), the coverage period for any fiscal year consists of the last 2 quarters of the preceding fiscal year and the first 2 quarters of the fiscal year.

''(C) SPECIAL RULES FOR FISCAL YEAR 2009.—With respect to fiscal year 2009—

''(i) the coverage period for that fiscal year shall be based on the first 2 quarters of fiscal year 2009; and

''(ii) the baseline monthly average shall be—

''(I) the average monthly enrollment of low-income children enrolled in the State's plan under title XIX for the first 2 quarters of fiscal year 2007 (as determined over a 6-month period on the basis of the most recent information reported through the Medicaid Statistical Information System (MSIS)); multiplied by

''(II) the sum of 1 plus the sum of—

''(aa) 0.02; and

''(bb) the percentage increase in the population of low-income children in the State from fiscal year 2007 to fiscal year 2009, as determined by the Secretary based on the most timely and accurate published estimates of the Bureau of the Census before the beginning of the fiscal year involved.

''(D) ADDITIONAL REQUIREMENT FOR ELIGIBILITY FOR PAYMENT.—For purposes of subparagraphs (B) and (C), the average monthly enrollment shall be determined without regard to children who do not meet the income eligibility criteria in effect on July 19, 2007, for enrollment under the State plan under title XIX or under a waiver of such plan.

''(4) TIME OF PAYMENT.—Payments under paragraph (2) for any fiscal year shall be made during the last quarter of such year.

''(5) USE OF PAYMENTS.—Payments made to a State from the Incentive Pool shall be used for any purpose that the State determines is likely to reduce the percentage of low-income children in the State without health insurance.

''(6) PRORATION RULE.—If the amount available for payment from the Incentive Pool is less than the total amount of payments to be made for such fiscal year, the Secretary shall reduce the payments described in paragraph (2) on a proportional basis.

''(7) REFERENCES.—With respect to a State plan under title XIX, any references to a child in this subsection shall include a reference to any individual provided medical assistance under the plan who has not attained age 19 (or, if a State has so elected under such State plan, age 20 or 21).''.

(b) REDISTRIBUTION OF UNEXPENDED FISCAL YEAR 2005 ALLOTMENTS.—Notwithstanding section 2104(f) of the Social Security Act (42 U.S.C. 1397dd(f)), with respect to fiscal year 2008, the Secretary shall provide for a redistribution under such section from the allotments for fiscal year 2005 under subsection (b) and (c) of such section that are not expended by the end of fiscal year 2007, to each State described in clause (iii) of section 2104(i)(2)(A) of the Social Security Act, as added by section 102(a), of an amount that bears the same ratio to such unexpended fiscal year 2005 allotments as the ratio of the fiscal year 2007 allotment determined for each such State under subsection (b) of section 2104 of such Act for fiscal year 2007 (without regard to any amounts paid, allotted, or redistributed to the State under section 2104 for any preceding fiscal year) bears to the total amount of the fiscal year 2007 allotments for all such States (as so determined).

(c) CONFORMING AMENDMENT ELIMINATING RULES FOR REDISTRIBUTION OF UNEXPENDED ALLOTMENTS FOR FISCAL YEARS AFTER 2005.—Effective January 1, 2008, section 2104(f) (42 U.S.C. 1397dd(f)) is amended to read as follows:

''(f) UNALLOCATED PORTION OF NATIONAL ALLOTMENT AND UNUSED ALLOTMENTS.—For provisions relating to the distribution of portions of the unallocated national allotment under subsection (a) for fiscal years beginning with fiscal year 2008, and unexpended allotments for fiscal years beginning with fiscal year 2006, see subsection (j).''.

(d) ADDITIONAL FUNDING FOR THE SECRETARY TO IMPROVE TIMELINESS OF DATA REPORTING AND ANALYSIS FOR PURPOSES OF DETERMINING ENROLLMENT INCREASES UNDER MEDICAID AND CHIP.—

(1) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $5,000,000 to the Secretary for fiscal year 2008 for the purpose of improving the timeliness of the data reported and analyzed from the Medicaid Statistical Information System (MSIS) for purposes of carrying out section 2104(j)(2)(B) of the Social Security Act (as added by subsection (a)) and to provide guidance to States with respect to any new reporting requirements related to such improvements. Amounts appropriated under this paragraph shall remain available until expended.

(2) REQUIREMENTS.—The improvements made by the Secretary under paragraph (1) shall be designed and implemented (including with respect to any necessary guidance for States) so that, beginning no later than October 1, 2008, data regarding the enrollment of low-income children (as defined in section 2110(c)(4) of the Social Security Act (42 U.S.C. 1397jj(c)(4)) of a State enrolled in the State plan under Medicaid or the State child health plan under CHIP with respect to a fiscal year shall be collected and analyzed by the Secretary within 6 months of submission.

SEC. 106. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS UNDER CHIP; CONDITIONS FOR COVERAGE OF PARENTS.

(a) PHASE-OUT RULES.—

(1) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following new section:

''SEC. 2111. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS; CONDITIONS FOR COVERAGE OF PARENTS.

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH FISCAL YEAR 2008.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2007, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2008, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF FISCAL YEAR 2008.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after September 30, 2008.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2008, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only through September 30, 2008.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during fiscal year 2008.

''(3) OPTIONAL 1-YEAR TRANSITIONAL COVERAGE BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Subject to paragraph (4)(B), each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may elect to provide nonpregnant childless adults who were provided child health assistance or health benefits coverage under the applicable existing waiver at any time during fiscal year 2008 with such assistance or coverage during fiscal year 2009, as if the authority to provide such assistance or coverage under an applicable existing waiver was extended through that fiscal year, but subject to the following terms and conditions:

''(A) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—The Secretary shall set aside for the State an amount equal to the Federal share of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all nonpregnant childless adults under such waiver for fiscal year 2008 (as certified by the State and submitted to the Secretary by not later than August 31, 2008, and without regard to whether any such individual lost coverage during fiscal year 2008 and was later provided child health assistance or other health benefits coverage under the waiver in that fiscal year), increased by the annual adjustment for fiscal year 2009 determined under section 2104(i)(2)(B)(i). The Secretary may adjust the amount set aside under the preceding sentence, as necessary, on the basis of the expenditure data for fiscal year 2008 reported by States on CMS Form 64 or CMS Form 21 not later than November 30, 2008, but in no case shall the Secretary adjust such amount after December 31, 2008.

''(B) NO COVERAGE FOR NONPREGNANT CHILDLESS ADULTS WHO WERE NOT COVERED DURING FISCAL YEAR 2008.—

''(i) FMAP APPLIED TO EXPENDITURES.—The Secretary shall pay the State for each quarter of fiscal year 2009, from the amount set aside under subparagraph (A), an amount equal to the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) of expenditures in the quarter for providing child health assistance or other health benefits coverage to a nonpregnant childless adult but only if such adult was enrolled in the State program under this title during fiscal year 2008 (without regard to whether the individual lost coverage during fiscal year 2008 and was reenrolled in that fiscal year or in fiscal year 2009).

''(ii) FEDERAL PAYMENTS LIMITED TO AMOUNT OF BLOCK GRANT SET-ASIDE.—No payments shall be made to a State for expenditures described in this subparagraph after the total amount set aside under subparagraph (A) for fiscal year 2009 has been paid to the State.

''(4) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than June 30, 2009, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a 'Medicaid nonpregnant childless adults waiver').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of September 30, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by June 30, 2009, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2010, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (3)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for calendar year 2010 over calendar year 2009, as most recently published by the Secretary; and

''(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the fiscal year involved over the preceding calendar year, as most recently published by the Secretary.

''(b) RULES AND CONDITIONS FOR COVERAGE OF PARENTS OF TARGETED LOW-INCOME CHILDREN.—

''(1) TWO-YEAR TRANSITION PERIOD; AUTOMATIC EXTENSION AT STATE OPTION THROUGH FISCAL YEAR 2009.—

''(A) NO NEW CHIP WAIVERS.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(i) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2007 approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

''(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2009, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2009, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2009.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section 2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a parent of a targeted low-income child during fiscal years 2008 and 2009.

''(2) RULES FOR FISCAL YEARS 2010 THROUGH 2012.—

''(A) PAYMENTS FOR COVERAGE LIMITED TO BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2010, 2011, or 2012, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

''(B) TERMS AND CONDITIONS.—

''(i) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—If the State makes an election under subparagraph (A), the Secretary shall set aside

for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all parents of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2012, the set aside for any State shall be computed separately for each period described in clauses (i) and (ii) of subsection (i))(1)(D) and any increase or reduction in the allotment for either such period under subsection (i)(3)(B)(ii) shall be allocated on a pro rata basis to such set aside.

''(ii) PAYMENTS FROM BLOCK GRANT.—The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

''(iii) ENHANCED FMAP ONLY IN FISCAL YEAR 2010 FOR STATES WITH SIGNIFICANT CHILD OUTREACH OR THAT ACHIEVE CHILD COVERAGE BENCHMARKS; FMAP FOR ANY OTHER STATES.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2010 is equal to—

''(I) the enhanced FMAP determined under section 2105(b) in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraphs (A), (B), or (C) of paragraph (3) for fiscal year 2009; or

''(II) the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) in the case of any other State.

''(iv) AMOUNT OF FEDERAL MATCHING PAYMENT IN 2011 OR 2012.—For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2011 or 2012 is equal to—

''(I) the REMAP percentage if—

''(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2009; and

''(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for the preceding fiscal year; or

''(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply.

For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

''(v) NO FEDERAL PAYMENTS OTHER THAN FROM BLOCK GRANT SET ASIDE.—No payments shall be made to a State for expenditures described in clause (ii) after the total amount set aside under clause (i) for a fiscal year has been paid to the State.

''(vi) NO INCREASE IN INCOME ELIGIBILITY LEVEL FOR PARENTS.—No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007.

''(3) OUTREACH OR COVERAGE BENCHMARKS.—For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

''(A) SIGNIFICANT CHILD OUTREACH CAMPAIGN.—The State—

''(i) was awarded a grant under section 2113 for fiscal year 2009;

''(ii) implemented 1 or more of the process measures described in section 2104(j)(3)(A)(i) for such fiscal year; or

''(iii) has submitted a specific plan for outreach for such fiscal year.

''(B) HIGH-PERFORMING STATE.—The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest ⅓ of States in terms of the State's percentage of low-income children without health insurance.

''(C) STATE INCREASING ENROLLMENT OF LOW-INCOME CHILDREN.—The State qualified for a payment from the Incentive Fund under clause (ii) or (iii) of paragraph (2)(C) of section 2104(j) for the most recent coverage period applicable under such section.

''(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as prohibiting a State from submitting an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a parent of a targeted low-income child that was provided child health assistance or health benefits coverage under an applicable existing waiver.

''(c) APPLICABLE EXISTING WAIVER.—For purposes of this section—

''(1) IN GENERAL.—The term 'applicable existing waiver' means a waiver, experimental, pilot, or demonstration project under section 1115, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—

''(A) would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to—

''(i) a parent of a targeted low-income child;

''(ii) a nonpregnant childless adult; or

''(iii) individuals described in both clauses (i) and (ii); and

''(B) was in effect during fiscal year 2007.

''(2) DEFINITIONS.—

''(A) PARENT.—The term 'parent' includes a caretaker relative (as such term is used in carrying out section 1931) and a legal guardian.

''(B) NONPREGNANT CHILDLESS ADULT.—The term 'nonpregnant childless adult' has the meaning given such term by section 2107(f).''.

(2) CONFORMING AMENDMENTS.—

(A) Section 2107(f) (42 U.S.C. 1397gg(f)) is amended—

(i) by striking '', the Secretary'' and inserting ''.

''(1) The Secretary'';

(ii) in the first sentence, by inserting ''or a parent (as defined in section 2111(c)(2)(A)), who is not pregnant, of a targeted low-income child'' before the period;

(iii) by striking the second sentence; and

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

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007 that would waive or modify the requirements of section 2111.''.

(B) Section 6102(c) of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 131) is amended by striking ''Nothing'' and inserting ''Subject to section 2111 of the Social Security Act, as added by section 106(a)(1) of the Children's Health Insurance Program Reauthorization Act of 2007, nothing''.

(b) GAO STUDY AND REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of whether—

(A) the coverage of a parent, a caretaker relative (as such term is used in carrying out section 1931), or a legal guardian of a targeted low-income child under a State health plan under title XXI of the Social Security Act increases the enrollment of, or the quality of care for, children, and

(B) such parents, relatives, and legal guardians who enroll in such a plan are more likely to enroll their children in such a plan or in a State plan under title XIX of such Act.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall report the results of the study to the appropriate committees of Congress, including recommendations (if any) for changes in legislation.

SEC. 107. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 106(a), is amended by adding at the end the following new section:

''SEC. 2112. OPTIONAL COVERAGE OF TARGETED LOW-INCOME PREGNANT WOMEN THROUGH A STATE PLAN AMENDMENT.

''(a) IN GENERAL.—Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 2102 to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

''(b) CONDITIONS.—A State may only elect the option under subsection (a) if the following conditions are satisfied:

''(1) MEDICAID INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN OF AT LEAST 185 PERCENT OF POVERTY.—The State has established an income eligibility level for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902 that is at least 185 percent of the income official poverty line.

''(2) NO CHIP INCOME ELIGIBILITY LEVEL FOR PREGNANT WOMEN LOWER THAN THE STATE'S MEDICAID LEVEL.—The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (l)(1)(A) of section 1902, on the date of enactment of this paragraph to be eligible for medical assistance as a pregnant woman.

''(3) NO COVERAGE FOR HIGHER INCOME PREGNANT WOMEN WITHOUT COVERING LOWER INCOME PREGNANT WOMEN.—The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

''(4) APPLICATION OF REQUIREMENTS FOR COVERAGE OF TARGETED LOW-INCOME CHILDREN.—The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

''(5) NO PREEXISTING CONDITION EXCLUSION OR WAITING PERIOD.—The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 2102(b)(3)(C)) for receipt of such assistance.

''(6) APPLICATION OF COST-SHARING PROTECTION.—The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 2103(e) and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

''(c) OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1920 (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under title XIX.

''(d) DEFINITIONS.—For purposes of this section:

''(1) PREGNANCY-RELATED ASSISTANCE.—The term 'pregnancy-related assistance' has the meaning given the term 'child health assistance' in section 2110(a) and includes any medical assistance that the State would provide for a pregnant woman under the State plan under title XIX during pregnancy and the period described in paragraph (2)(A).

''(2) TARGETED LOW-INCOME PREGNANT WOMAN.—The term 'targeted low-income pregnant woman' means a woman—

''(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

''(B) whose family income does not exceed the income eligibility level established under the State child health plan under this title for a targeted low-income child; and

''(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 2110(b) in the same manner as a child applying for child health assistance would have to satisfy such requirements.

''(e) AUTOMATIC ENROLLMENT FOR CHILDREN BORN TO WOMEN RECEIVING PREGNANCY-RELATED ASSISTANCE.—If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child's birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under title XIX and to have been found eligible for such assistance under such title, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

''(f) STATES PROVIDING ASSISTANCE THROUGH OTHER OPTIONS.—

''(1) CONTINUATION OF OTHER OPTIONS FOR PROVIDING ASSISTANCE.—The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

''(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61956–61974 (October 2, 2002)), or

''(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2007).

''(2) CLARIFICATION OF AUTHORITY TO PROVIDE POSTPARTUM SERVICES.—Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

''(3) NO INFERENCE.—Nothing in this subsection shall be construed—

''(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

''(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).''.

(b) ADDITIONAL CONFORMING AMENDMENTS.—

(1) NO COST SHARING FOR PREGNANCY-RELATED BENEFITS.—Section 2103(e)(2) (42 U.S.C. 1397cc(e)(2)) is amended—

(A) in the heading, by inserting ''OR PREGNANCY-RELATED ASSISTANCE'' after ''PREVENTIVE SERVICES''; and

(B) by inserting before the period at the end the following: ''or for pregnancy-related assistance''.

(2) NO WAITING PERIOD.—Section 2102(b)(1)(B) (42 U.S.C. 1397bb(b)(1)(B)) is amended—

(A) in clause (i), by striking '', and'' at the end and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new clause:

''(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 2112.''.

SEC. 108. CHIP CONTINGENCY FUND.

Section 2104 (42 U.S.C. 1397dd), as amended by section 105, is amended by adding at the end the following new subsection:

''(k) CHIP CONTINGENCY FUND.—

''(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a fund which shall be known as the 'CHIP Contingency Fund' (in this subsection referred to as the 'Fund'). Amounts in the Fund are authorized to be appropriated for payments under this subsection.

''(2) DEPOSITS INTO FUND.—

''(A) INITIAL AND SUBSEQUENT APPROPRIATIONS.—Subject to subparagraphs (B) and (E), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

''(i) for fiscal year 2009, an amount equal to 12.5 percent of the available national allotment under subsection (i)(1)(C) for the fiscal year; and

''(ii) for each of fiscal years 2010 through 2012, such sums as are necessary for making payments to eligible States for such fiscal year, but not in excess of the aggregate cap described in subparagraph (B).

''(B) AGGREGATE CAP.—Subject to subparagraph (E), the total amount available for payment from the Fund for each of fiscal years 2009 through 2012 (taking into account deposits made under subparagraph (C)), shall not exceed 12.5 percent of the available national allotment under subsection (i)(1)(C) for the fiscal year.

''(C) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

''(D) TRANSFER OF EXCESS FUNDS TO THE INCENTIVE FUND.—The Secretary of the Treasury shall transfer to, and deposit in, the CHIP Incentive Bonuses Pool established under subsection (j) any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year.

''(E) SPECIAL RULES FOR AMOUNTS SET ASIDE FOR PARENTS AND CHILDLESS ADULTS.—For purposes of subparagraphs (A) and (B)—

''(i) the available national allotment under subsection (i)(1)(C) shall be reduced by any amount set aside under section 2111(a)(3) for block grant payments for transitional coverage for childless adults; and

''(ii) the Secretary shall establish a separate account in the Fund for the portion of any amount appropriated to the Fund for any fiscal year which is allocable to the portion of the available national allotment under subsection (i)(1)(C) which is set aside for the fiscal year under section 2111(b)(2)(B)(i) for coverage of parents of low-income children.

The Secretary shall include in the account established under clause (ii) any income derived under subparagraph (C) which is allocable to amounts in such account.

''(3) CHIP CONTINGENCY FUND PAYMENTS.—

''(A) PAYMENTS.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii) and the succeeding subparagraphs of this paragraph, the Secretary shall pay from the Fund to a State that is an eligible State for a month of a fiscal year a CHIP contingency fund payment equal to the Federal share of the shortfall determined under subparagraph (D). In the case of an eligible State under subparagraph (D)(i), the Secretary shall not make the payment under this subparagraph until the State makes, and submits to the Secretary, a projection of the amount of the shortfall.

''(ii) SEPARATE DETERMINATIONS OF SHORTFALLS.—The Secretary shall separately compute the shortfall under subparagraph (D) for expenditures for eligible individuals other than nonpregnant childless adults and parents with respect to whom amounts are set aside under section 2111, for expenditures for such childless adults, and for expenditures for such parents.

''(iii) PAYMENTS.—

''(I) NONPREGNANT CHILDLESS ADULTS.—No payments shall be made from the Fund for nonpregnant childless adults with respect to whom amounts are set aside under section 2111(a)(3).

''(II) PARENTS.—Any payments with respect to any shortfall for parents who are paid from amounts set aside under section 2111(b)(2)(B)(i) shall be made only from the account established under paragraph (2)(E)(ii) and not from any other amounts in the Fund. No other payments may be made from such account.

''(iv) SPECIAL RULES.—Subparagraphs (B) and (C) shall be applied separately with respect to shortfalls described in clause (ii).

''(B) USE OF FUNDS.—Amounts paid to an eligible State from the Fund shall be used only to eliminate the Federal share of a shortfall in the State's allotment under subsection (i) for a fiscal year.

''(C) PRORATION RULE.—If the amounts available for payment from the Fund for a fiscal year are less than the total amount of payments determined under subparagraph (A) for the fiscal year, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

''(D) ELIGIBLE STATE.—

''(i) IN GENERAL.—A State is an eligible State for a month if the State is a subsection (b) State (as defined in subsection (i)(7)), the State requests access to the Fund for the month, and it is described in clause (ii) or (iii).

''(ii) SHORTFALL OF FEDERAL ALLOTMENT FUNDING OF NOT MORE THAN 5 PERCENT.—The Secretary estimates, on the basis of the most recent data available to the Secretary or requested from the State by the Secretary, that the State's allotment for the fiscal year is at least 95 percent, but less than 100 percent, of the projected expenditures under the State child health plan for the State for the fiscal year determined under subsection (i) (without regard to incentive bonuses or payments for which the State is eligible for under subsection (j)(2) for the fiscal year).

''(iii) SHORTFALL OF FEDERAL ALLOTMENT FUNDING OF MORE THAN 5 PERCENT CAUSED BY SPECIFIC EVENTS.—The Secretary estimates, on the basis of the most recent data available to the Secretary or requested from the State by the Secretary, that the State's allotment for the fiscal year is less than 95 percent of the projected expenditures under the State child health plan for the State for the fiscal year determined under subsection (i) (without regard to incentive bonuses or payments for which the State is eligible for under subsection (j)(2) for the fiscal year) and that such shortfall is attributable to 1 or more of the following events:

''(I) STAFFORD ACT OR PUBLIC HEALTH EMERGENCY.—The State has—

''(aa) 1 or more parishes or counties for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford

Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) and which the President has determined warrants individual and public assistance from the Federal Government under such Act; or

''(bb) a public health emergency declared by the Secretary under section 319 of the Public Health Service Act.

''(II) STATE ECONOMIC DOWNTURN.—The State unemployment rate is at least 5.5 percent during any 3-month period during the fiscal year and such rate is at least 120 percent of the State unemployment rate for the same period as averaged over the last 3 fiscal years.

''(III) EVENT RESULTING IN RISE IN PERCENTAGE OF LOW-INCOME CHILDREN WITHOUT HEALTH INSURANCE.—The State experienced a recent event that resulted in an increase in the percentage of low-income children in the State without health insurance (as determined on the basis of the most timely and accurate published estimates of the Bureau of the Census) that was outside the control of the State and warrants granting the State access to the Fund (as determined by the Secretary).

''(E) PAYMENTS MADE TO ALL ELIGIBLE STATES ON A MONTHLY BASIS; AUTHORITY FOR PRO RATA PAYMENTS.—The Secretary shall make monthly payments from the Fund to all States that are determined to be eligible States with respect to a month. If the sum of the payments to be made from the Fund for a month exceed the amount in the Fund, the Secretary shall reduce each such payment on a proportional basis.

''(F) PAYMENTS LIMITED TO FISCAL YEAR OF ELIGIBILITY DETERMINATION UNLESS NEW ELIGIBILITY BASIS DETERMINED.—No State shall receive a CHIP contingency fund payment under this section for a month beginning after September 30 of the fiscal year in which the State is determined to be an eligible State under this subsection, except that in the case of an event described in subclause (I) or (III) of subparagraph (D)(iii) that occurred after July 1 of the fiscal year, any such payment with respect to such event shall remain available until September 30 of the subsequent fiscal year. Nothing in the preceding sentence shall be construed as prohibiting a State from being determined to be an eligible State under this subsection for any fiscal year occurring after a fiscal year in which such a determination is made.

''(G) EXEMPTION FROM DETERMINATION OF PERCENTAGE OF ALLOTMENT RETAINED AFTER FIRST YEAR OF AVAILABILITY.—In no event shall payments made to a State under this subsection be treated as part of the allotment determined for a State for a fiscal year under subsection (i) for purposes of subsection (j)(1)(B)(ii)(III).

''(H) APPLICATION OF ALLOTMENT REPORTING RULES.—Rules applicable to States for purposes of receiving payments from an allotment determined under subsection (c) or (i) shall apply in the same manner to an eligible State for purposes of receiving a CHIP contingency fund payment under this subsection.

''(4) ANNUAL REPORTS.—The Secretary shall annually report to the Congress on the amounts in the Fund, the specific events that caused States to apply for payments from the Fund, and the payments made from the Fund.''.

SEC. 109. TWO-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS.

Section 2104(e) (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in subsection (j)(1)(B)(ii)(III), amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2006, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2007 through 2012, shall remain available for expenditure by the State only through the end of the succeeding fiscal year for which such amounts are allotted.

''(2) INCENTIVE BONUSES.—Incentive bonuses paid to a State under subsection (j)(2) for a fiscal year shall remain available for expenditure by the State without limitation.

''(3) CHIP CONTINGENCY FUND PAYMENTS.—Except as provided in paragraph (3)(F) of subsection (k), CHIP Contingency Fund payments made to a State under such subsection for a month of a fiscal year shall remain available for expenditure by the State through the end of the fiscal year.

''(4) RULE FOR COUNTING EXPENDITURES AGAINST CHIP CONTINGENCY FUND PAYMENTS, FISCAL YEAR ALLOTMENTS, AND INCENTIVE BONUSES.—

''(A) IN GENERAL.—Expenditures under the State child health plan made on or after October 1, 2007, shall be counted against—

''(i) first, any CHIP Contingency Fund payment made to the State under subsection (k) for the earliest month of the earliest fiscal year for which the payment remains available for expenditure; and

''(ii) second, amounts allotted to the State for the earliest fiscal year for which amounts remain available for expenditure.

''(B) INCENTIVE BONUSES.—A State may elect, but is not required, to count expenditures under the State child health plan against any incentive bonuses paid to the State under subsection (j)(2) for a fiscal year.

''(C) BLOCK GRANT SET-ASIDES.—Expenditures for coverage of—

''(i) nonpregnant childless adults for fiscal year 2009 shall be counted only against the amount set aside for such coverage under section 2111(a)(3); and

''(ii) parents of targeted low-income children for each of fiscal years 2010 through 2012, shall be counted only against the amount set aside for such coverage under section 2111(b)(2)(B)(i).''.

SEC. 110. LIMITATION ON MATCHING RATE FOR STATES THAT PROPOSE TO COVER CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE.

(a) FMAP APPLIED TO EXPENDITURES.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATION ON MATCHING RATE FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE PROVIDED TO CHILDREN WHOSE EFFECTIVE FAMILY INCOME EXCEEDS 300 PERCENT OF THE POVERTY LINE.—

''(A) FMAP APPLIED TO EXPENDITURES.—Except as provided in subparagraph (B), for fiscal years beginning with fiscal year 2008, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to any State that, on the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 111. OPTION FOR QUALIFYING STATES TO RECEIVE THE ENHANCED PORTION OF THE CHIP MATCHING RATE FOR MEDICAID COVERAGE OF CERTAIN CHILDREN.

Section 2105(g) (42 U.S.C. 1397ee(g)) is amended—

(1) in paragraph (1)(A), by inserting ''subject to paragraph (4),'' after ''Notwithstanding any other provision of law,''; and

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

''(4) OPTION FOR ALLOTMENTS FOR FISCAL YEARS 2008 THROUGH 2012.—

''(A) PAYMENT OF ENHANCED PORTION OF MATCHING RATE FOR CERTAIN EXPENDITURES.—In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 2104 for any of fiscal years 2008 through 2012 (insofar as the allotment is available to the State under subsections (e) and (i) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under title XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1905(b)).

''(B) EXPENDITURES DESCRIBED.—For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after the date of the enactment of this paragraph and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under title XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under title XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.''.

TITLE II—OUTREACH AND ENROLLMENT

SEC. 201. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 107, is amended by adding at the end the following:

''SEC. 2113. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2008 through 2012 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) TEN PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

''(b) PRIORITY FOR AWARD OF GRANTS.—

''(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(A) propose to target geographic areas with high rates of—

''(i) eligible but unenrolled children, including such children who reside in rural areas; or

''(ii) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(2) TEN PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) DISSEMINATION OF ENROLLMENT DATA AND INFORMATION DETERMINED FROM EFFECTIVENESS ASSESSMENTS; ANNUAL REPORT.—The Secretary shall—

''(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

''(2) submit an annual report to Congress on the outreach and enrollment activities conducted with funds appropriated under this section.

''(e) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO STATE MATCH REQUIRED.—In the case of a State that is awarded a grant under this section—

''(1) the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded; and

''(2) no State matching funds shall be required for the State to receive a grant under this section.

''(f) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to nongovernmental entities.

''(G) An elementary or secondary school.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(l)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(g) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, $100,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended, for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(h) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2), the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) ENHANCED ADMINISTRATIVE FUNDING FOR TRANSLATION OR INTERPRETATION SERVICES UNDER CHIP.—Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)), as amended by section 603, is amended—

(1) in the matter preceding subparagraph (A), by inserting ''(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)'' after ''enhanced FMAP''; and

(2) in subparagraph (D)—

(A) in clause (iii), by striking ''and'' at the end;

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause:

''(iv) for translation or interpretation services in connection with the enrollment and use of services under this title by individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and''.

(c) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO CERTAIN EXPENDITURES.—The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

''(i) EXPENDITURES FUNDED UNDER SECTION 2113.—Expenditures for outreach and enrollment activities funded under a grant awarded to the State under section 2113.''.

SEC. 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS.

(a) IN GENERAL.—Section 1139 (42 U.S.C. 1320b–9) is amended to read as follows:

''SEC. 1139. IMPROVED ACCESS TO, AND DELIVERY OF, HEALTH CARE FOR INDIANS UNDER TITLES XIX AND XXI.

''(a) AGREEMENTS WITH STATES FOR MEDICAID AND CHIP OUTREACH ON OR NEAR RESERVATIONS TO INCREASE THE ENROLLMENT OF INDIANS IN THOSE PROGRAMS.—

''(1) IN GENERAL.—In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children's health insurance programs established under titles XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

''(2) CONSTRUCTION.—Nothing in paragraph (1) shall be construed as affecting arrangements entered into between States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such titles.

''(b) REQUIREMENT TO FACILITATE COOPERATION.—The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under title XIX or XXI.

''(c) DEFINITION OF INDIAN; INDIAN TRIBE; INDIAN HEALTH PROGRAM; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—In this section, the terms 'Indian', 'Indian Tribe', 'Indian Health Program', 'Tribal Organization', and 'Urban Indian Organization' have the meanings

given those terms in section 4 of the Indian Health Care Improvement Act.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as added by section 201(c), is amended by adding at the end the following new clause:

''(ii) EXPENDITURES TO INCREASE OUTREACH TO, AND THE ENROLLMENT OF, INDIAN CHILDREN UNDER THIS TITLE AND TITLE XIX.—Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under title XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1139(a).''.

SEC. 203. DEMONSTRATION PROGRAM TO PERMIT STATES TO RELY ON FINDINGS BY AN EXPRESS LANE AGENCY TO DETERMINE COMPONENTS OF A CHILD'S ELIGIBILITY FOR MEDICAID OR CHIP.

(a) REQUIREMENT TO CONDUCT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a 3-year demonstration program under which up to 10 States shall be authorized to rely on a finding made within the preceding 12 months by an Express Lane agency to determine whether a child has met 1 or more of the eligibility requirements, such as income, assets or resources, citizenship status, or other criteria, necessary to determine the child's initial eligibility, eligibility redetermination, or renewal of eligibility, for medical assistance under the State Medicaid plan or child health assistance under the State CHIP plan. A State selected to participate in the demonstration program—

(A) shall not be required to direct a child (or a child's family) to submit information or documentation previously submitted by the child or family to an Express Lane agency that the State relies on for its Medicaid or CHIP eligibility determination; and

(B) may rely on information from an Express Lane agency when evaluating a child's eligibility for medical assistance under the State Medicaid plan or child health assistance under the State CHIP plan without a separate, independent confirmation of the information at the time of enrollment, redetermination, or renewal.

(2) PAYMENTS TO STATES.—From the amount appropriated under paragraph (1) of subsection (f), after the application of paragraph (2) of that subsection, the Secretary shall pay the States selected to participate in the demonstration program such sums as the Secretary shall determine for expenditures made by the State for systems upgrades and implementation of the demonstration program. In no event shall a payment be made to a State from the amount appropriated under subsection (f) for any expenditures incurred for providing medical assistance or child health assistance to a child enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency.

(b) REQUIREMENTS; OPTIONS FOR APPLICATION.—

(1) STATE REQUIREMENTS.—A State selected to participate in the demonstration program established under this section may rely on a finding of an Express Lane agency only if the following conditions are met:

(A) REQUIREMENT TO DETERMINE ELIGIBILITY USING REGULAR PROCEDURES IF CHILD IS FIRST FOUND INELIGIBLE.—If reliance on a finding from an Express Lane agency results in a child not being found eligible for the State Medicaid plan or the State CHIP plan, the State would be required to determine eligibility under such plan using its regular procedures.

(B) NOTICE.—The State shall inform the families (especially those whose children are enrolled in the State CHIP plan) that they may qualify for lower premium payments or more comprehensive health coverage under the State Medicaid plan if the family's income were directly evaluated for an eligibility determination by the State Medicaid agency, and that, at the family's option, the family may seek an eligibility determination by the State Medicaid agency.

(C) COMPLIANCE WITH DEPARTMENT OF HOMELAND SECURITY PROCEDURES.—The State may rely on an Express Lane agency finding that a child is a qualified alien as long as the Express Lane agency complies with guidance and regulatory procedures issued by the Secretary of Homeland Security for eligibility determinations of qualified aliens (as defined in subsections (b) and (c) of section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641)).

(D) VERIFICATION OF CITIZENSHIP OR NATIONALITY STATUS.—The State shall satisfy the requirements of section 1902(a)(46)(B) or 2105(c)(9) of the Social Security Act, as applicable (and as added by section 301 of this Act) for verifications of citizenship or nationality status.

(E) CODING; APPLICATION TO ENROLLMENT ERROR RATES.—

(i) IN GENERAL.—The State agrees to—

(I) assign such codes as the Secretary shall require to the children who are enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency for the duration of the State's participation in the demonstration program;

(II) annually provide the Secretary with a statistically valid sample (that is approved by Secretary) of the children enrolled in such plans through reliance on such a finding by conducting a full Medicaid eligibility review of the children identified for such sample for purposes of determining an eligibility error rate with respect to the enrollment of such children;

(III) submit the error rate determined under subclause (II) to the Secretary;

(IV) if such error rate exceeds 3 percent for either of the first 2 fiscal years in which the State participates in the demonstration program, demonstrate to the satisfaction of the Secretary the specific corrective actions implemented by the State to improve upon such error rate; and

(V) if such error rate exceeds 3 percent for any fiscal year in which the State participates in the demonstration program, a reduction in the amount otherwise payable to the State under section 1903(a) of the Social Security Act (42 Secretary 1396b(a)) for quarters for that fiscal year, equal to the total amount of erroneous excess payments determined for the fiscal year only with respect to the children included in the sample for the fiscal year that are in excess of a 3 percent error rate with respect to such children.

(ii) NO PUNITIVE ACTION BASED ON ERROR RATE.—The Secretary shall not apply the error rate derived from the sample under clause (i) to the entire population of children enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency, or to the population of children enrolled in such plans on the basis of the State's regular procedures for determining eligibility, or penalize the State on the basis of such error rate in any manner other than the reduction of payments provided for under clause (i)(V).

(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as relieving a State that participates in the demonstration program established under this section from being subject to a penalty under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for payments made under the State Medicaid plan with respect to ineligible individuals and families that are determined to exceed the error rate permitted under that section (as determined without regard to the error rate determined under clause (i)(II)).

(2) STATE OPTIONS FOR APPLICATION.—A State selected to participate in the demonstration program may elect to apply any of the following:

(A) SATISFACTION OF CHIP SCREEN AND ENROLL REQUIREMENTS.—If the State relies on a finding of an Express Lane agency for purposes of determining eligibility under the State CHIP plan, the State may meet the screen and enroll requirements imposed under subparagraphs (A) and (B) of section 2102(b)(3) of the Social Security Act (42 U.S.C. 1397bb(b)(3)) by using any of the following:

(i) Establishing a threshold percentage of the poverty line that is 30 percentage points (or such other higher number of percentage points) as the State determines reflects the income methodologies of the program administered by the Express Lane Agency and the State Medicaid plan.

(ii) Providing that a child satisfies all income requirements for eligibility under the State Medicaid plan.

(iii) Providing that a child has a family income that exceeds the Medicaid applicable income level.

(B) PRESUMPTIVE ELIGIBILITY.—The State may provide for presumptive eligibility under the State CHIP plan for a child who, based on an eligibility determination of an income finding from an Express Lane agency, would qualify for child health assistance under the State CHIP plan. During the period of presumptive eligibility, the State may determine the child's eligibility for child health assistance under the State CHIP plan based on telephone contact with family members, access to data available in electronic or paper format, or other means that minimize to the maximum extent feasible the burden on the family.

(C) AUTOMATIC ENROLLMENT.—

(i) IN GENERAL.—The State may initiate and determine eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan without a program application from, or on behalf of, the child based on data obtained from sources other than the child (or the child's family), but a child can only be automatically enrolled in the State Medicaid plan or the State CHIP plan if the child or the family affirmatively consents to being enrolled through affirmation and signature on an Express Lane agency application.

(ii) INFORMATION REQUIREMENT.—A State that elects the option under clause (i) shall have procedures in place to inform the child or the child's family of the services that will be covered under the State Medicaid plan or the State CHIP plan (as applicable), appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations created by the enrollment (if applicable), and the actions the child or the child's family must take to maintain enrollment and renew coverage.

(iii) OPTION TO WAIVE SIGNATURES.—The State may waive any signature requirements for enrollment for a child who consents to, or on whose behalf consent is provided for, enrollment in the State Medicaid plan or the State CHIP plan.

(3) SIGNATURE REQUIREMENTS.—In the case of a State selected to participate in the demonstration program—

(A) no signature under penalty of perjury shall be required on an application form for medical assistance under the State Medicaid plan or child health assistance under the State CHIP plan to attest to any element of the application for which eligibility is based on information received from an Express Lane agency or a source other than an applicant; and

(B) any signature requirement for determination of an application for medical assistance under the State Medicaid plan or child health assistance under the State CHIP plan may be satisfied through an electronic signature.

(4) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

(A) relieve a State of the obligation under section 1902(a)(5) of the Social Security Act (42 U.S.C. 1396a(a)(5)) to determine eligibility for medical assistance under the State Medicaid plan; or

(B) prohibit any State options otherwise permitted under Federal law (without regard to this paragraph or the demonstration program established under this section) that are intended to increase the enrollment of eligible children for medical assistance under the State Medicaid plan or child health assistance under the State CHIP plan, including options related to outreach, enrollment, applications, or the determination or redetermination of eligibility.

(c) LIMITED WAIVER OF OTHER APPLICABLE REQUIREMENTS.—

(1) SOCIAL SECURITY ACT.—The Secretary shall waive only such requirements of the Social Security Act as the Secretary determines are necessary to carry out the demonstration program established under this section.

(2) AUTHORIZATION FOR PARTICIPATING STATES TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—For provisions relating to the authority of States participating in the demonstration program to receive certain data directly, see section 204(c).

(d) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct, by grant, contract, or interagency agreement, a comprehensive, independent evaluation of the demonstration program established under this section. Such evaluation shall include an analysis of the effectiveness of the program, and shall include—

(A) obtaining a statistically valid sample of the children who were enrolled in the State Medicaid plan or the State CHIP plan through reliance on a finding made by an Express Lane agency and determining the percentage of children who were erroneously enrolled in such plans;

(B) determining whether enrolling children in such plans through reliance on a finding made by an Express Lane agency improves the ability of a State to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans;

(C) evaluating the administrative costs or savings related to identifying and enrolling children in such plans through reliance on such findings, and the extent to which such costs differ from the costs that the State otherwise would have incurred to identify and enroll low-income, uninsured children who are eligible but not enrolled in such plans; and

(D) any recommendations for legislative or administrative changes that would improve the effectiveness of enrolling children in such plans through reliance on such findings.

(2) REPORT TO CONGRESS.—Not later than September 30, 2012, the Secretary shall submit a report to Congress on the results of the evaluation of the demonstration program established under this section.

(e) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—With respect to a State selected to participate in the demonstration program established under this section, the terms ''child'' and ''children'' have the meanings given such terms for purposes of the State plans under titles XIX and XXI of the Social Security Act.

(2) EXPRESS LANE AGENCY.—

(A) IN GENERAL.—The term ''Express Lane agency'' means a public agency that—

(i) is determined by the State Medicaid agency or the State CHIP agency (as applicable) to be capable of making the determinations of 1 or more eligibility requirements described in subsection (a)(1);

(ii) is identified in the State Medicaid plan or the State CHIP plan; and

(iii) notifies the child's family—

(I) of the information which shall be disclosed in accordance with this section;

(II) that the information disclosed will be used solely for purposes of determining eligibility for medical assistance under the State Medicaid plan or for child health assistance under the State CHIP plan; and

(III) that the family may elect to not have the information disclosed for such purposes; and

(iv) enters into, or is subject to, an interagency agreement to limit the disclosure and use of the information disclosed.

(B) INCLUSION OF SPECIFIC PUBLIC AGENCIES.—Such term includes the following:

(i) A public agency that determines eligibility for assistance under any of the following:

(I) The temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(II) A State program funded under part D of title IV of such Act (42 U.S.C. 651 et seq.).

(III) The State Medicaid plan.

(IV) The State CHIP plan.

(V) The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(VI) The Head Start Act (42 U.S.C. 9801 et seq.).

(VII) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(VIII) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(IX) The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(X) The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.).

(XI) The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(XII) The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.).

(ii) A State-specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings relied on by the State.

(iii) A public agency that is subject to an interagency agreement limiting the disclosure and use of the information disclosed for purposes of determining eligibility under the State Medicaid plan or the State CHIP plan.

(C) EXCLUSIONS.—Such term does not include an agency that determines eligibility for a program established under the Social Services Block Grant established under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) or a private, for-profit organization.

(D) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

(i) affecting the authority of a State Medicaid agency to enter into contracts with nonprofit and for-profit agencies to administer the Medicaid application process;

(ii) exempting a State Medicaid agency from complying with the requirements of section 1902(a)(4) of the Social Security Act (relating to merit-based personnel standards for employees of the State Medicaid agency and safeguards against conflicts of interest); or

(iii) authorizing a State Medicaid agency that participates in the demonstration program established under this section to use the Express Lane option to avoid complying with such requirements for purposes of making eligibility determinations under the State Medicaid plan.

(3) MEDICAID APPLICABLE INCOME LEVEL.—With respect to a State, the term ''Medicaid applicable income level'' has the meaning given that term for purposes of such State under section 2110(b)(4) of the Social Security Act (42 U.S.C. 1397jj(4)).

(4) POVERTY LINE.—The term ''poverty line'' has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(5) STATE.—The term ''State'' means 1 of the 50 States or the District of Columbia.

(6) STATE CHIP AGENCY.—The term ''State CHIP agency'' means the State agency responsible for administering the State CHIP plan.

(7) STATE CHIP PLAN.—The term ''State CHIP plan'' means the State child health plan established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), and includes any waiver of such plan.

(8) STATE MEDICAID AGENCY.—The term ''State Medicaid agency'' means the State agency responsible for administering the State Medicaid plan.

(9) STATE MEDICAID PLAN.—The term ''State Medicaid plan'' means the State plan established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and includes any waiver of such plan.

(f) APPROPRIATION.—

(1) OPERATIONAL FUNDS.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out the demonstration program established under this section, $49,000,000 for the period of fiscal years 2008 through 2012.

(2) EVALUATION FUNDS.—$5,000,000 of the funds appropriated under paragraph (1) shall be used to conduct the evaluation required under subsection (d).

(3) BUDGET AUTHORITY.—Paragraph (1) constitutes budget authority in advance of appropriations Act and represents the obligation of the Federal Government to provide for the payment to States selected to participate in the demonstration program established under this section of the amounts provided under such paragraph (after the application of paragraph (2)).

SEC. 204. AUTHORIZATION OF CERTAIN INFORMATION DISCLOSURES TO SIMPLIFY HEALTH COVERAGE DETERMINATIONS.

(a) AUTHORIZATION OF INFORMATION DISCLOSURE.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(1) by redesignating section 1939 as section 1940; and

(2) by inserting after section 1938 the following new section:

''AUTHORIZATION TO RECEIVE PERTINENT INFORMATION

''SEC. 1939. (a) IN GENERAL.—Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this title (including eligibility files, information described in paragraph (2) or (3) of section 1137(a), vital records information about births in any State, and information described in sections 453(i) and 1902(a)(25)(I)) is authorized to convey such data or information to the State agency administering the State plan under this title, but only if such conveyance meets the requirements of subsection (b).

''(b) REQUIREMENTS FOR CONVEYANCE.—Data or information may be conveyed pursuant to this section only if the following requirements are met:

''(1) The child whose circumstances are described in the data or information (or such child's parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

''(2) Such data or information are used solely for the purposes of—

''(A) identifying children who are eligible or potentially eligible for medical assistance under this title and enrolling (or attempting to enroll) such children in the State plan; and

''(B) verifying the eligibility of children for medical assistance under the State plan.

''(3) An interagency or other agreement, consistent with standards developed by the Secretary—

''(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements for safeguarding privacy and data security; and

''(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll children in the plan.

''(c) CRIMINAL PENALTY.—A person described in subsection (a) who publishes, divulges, discloses, or makes known in any manner, or to any extent, not authorized by Federal law, any information obtained under this section shall be fined not more than $1,000 or imprisoned not more than 1 year, or both, for each such unauthorized activity.

''(d) RULE OF CONSTRUCTION.—The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).''.

(b) CONFORMING AMENDMENT TO TITLE XXI.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)) is amended by adding at the end the following new subparagraph:

''(E) Section 1939 (relating to authorization to receive data directly relevant to eligibility determinations).''.

(c) AUTHORIZATION FOR STATES PARTICIPATING IN THE EXPRESS LANE DEMONSTRATION PROGRAM TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE.—Only in the case of a State selected to participate in the Express Lane demonstration program established under section 203, the Secretary shall enter into such agreements as are necessary to permit such a State to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under the State CHIP plan or the State Medicaid plan (as such terms are defined in paragraphs (7) and (9) section 203(e)) from the following:

(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

(2) Data regarding enrollment in insurance that may help to facilitate outreach and enrollment under the State Medicaid plan, the State CHIP plan, and such other programs as the Secretary may specify.

TITLE III—REDUCING BARRIERS TO ENROLLMENT

SEC. 301. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP.

(a) STATE OPTION TO VERIFY DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID THROUGH VERIFICATION OF NAME AND SOCIAL SECURITY NUMBER.—

(1) ALTERNATIVE TO DOCUMENTATION REQUIREMENT.—

(A) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(i) in subsection (a)(46)—

(I) by inserting ''(A)'' after ''(46)'';

(II) by adding ''and'' after the semicolon; and

(III) by adding at the end the following new subparagraph:

''(B) provide, with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, that the State shall satisfy the requirements of—

''(i) section 1903(x); or

''(ii) subsection (dd);''; and

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

''(dd)(1) For purposes of subsection (a)(46)(B)(ii), the requirements of this subsection with respect to an individual declaring to be a citizen or national of the United States for purposes of establishing eligibility under this title, are, in lieu of requiring the individual to present satisfactory documentary evidence of citizenship or nationality under section 1903(x) (if the individual is not described in paragraph (2) of that section), as follows:

''(A) The State submits the name and social security number of the individual to the Commissioner of Social Security as part of the plan established under paragraph (2).

''(B) If the State receives notice from the Commissioner of Social Security that the name or social security number of the individual is invalid, the State—

''(i) notifies the individual of such fact;

(ii) provides the individual with a period of 90 days from the date on which the notice required under clause (i) is received by the individual to either present satisfactory documentary evidence of citizenship or nationality (as defined in section 1903(x)(3)) or cure the invalid determination with the Commissioner of Social Security; and

''(iii) disenrolls the individual from the State plan under this title within 30 days after the end of such 90-day period if no such documentary evidence is presented.

''(2)(A) Each State electing to satisfy the requirements of this subsection for purposes of section 1902(a)(46)(B) shall establish a program under which the State submits each month to the Commissioner of Social Security for verification the name and social security number of each individual enrolled in the State plan under this title that month who has attained the age of 1 before the date of the enrollment.

''(B) In establishing the State program under this paragraph, the State may enter into an agreement with the Commissioner of Social Security to provide for the electronic submission and verification of the name and social security number of an individual before the individual is enrolled in the State plan.

''(3)(A) The State agency implementing the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the percentage each month that the invalid names and numbers submitted bears to the total submitted for verification.

''(B) If, for any fiscal year, the average monthly percentage determined under subparagraph (A) is greater than 7 percent—

''(i) the State shall develop and adopt a corrective plan to review its procedures for verifying the identities of individuals seeking to enroll in the State plan under this title and to identify and implement changes in such procedures to improve their accuracy; and

''(ii) pay to the Secretary an amount equal to the amount which bears the same ratio to the total payments under the State plan for the fiscal year for providing medical assistance to individuals who provided invalid information as the number of individuals with invalid information in excess of 7 percent of such total submitted bears to the total number of individuals with invalid information.

''(C) The Secretary may waive, in certain limited cases, all or part of the payment under subparagraph (B)(ii) if the State is unable to reach the allowable error rate despite a good faith effort by such State.

''(D) This paragraph shall not apply to a State for a fiscal year if there is an agreement described in paragraph (2)(B) in effect as of the close of the fiscal year.

''(4) Nothing in this subsection shall affect the rights of any individual under this title to appeal any disenrollment from a State plan.''.

(B) COSTS OF IMPLEMENTING AND MAINTAINING SYSTEM.—Section 1903(a)(3) (42 U.S.C. 1396b(a)(3)) is amended—

(i) by striking ''plus'' at the end of subparagraph (E) and inserting ''and'', and

(ii) by adding at the end the following new subparagraph:

''(F)(i) 90 percent of the sums expended during the quarter as are attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement section 1902(dd) (including a system described in paragraph (2)(B) thereof), and

''(ii) 75 percent of the sums expended during the quarter as are attributable to the operation of systems to which clause (i) applies, plus''.

(2) LIMITATION ON WAIVER AUTHORITY.—Notwithstanding any provision of section 1115 of the Social Security Act (42 U.S.C. 1315), or any other provision of law, the Secretary may not waive the requirements of section 1902(a)(46)(B) of such Act (42 U.S.C. 1396a(a)(46)(B)) with respect to a State.

(3) CONFORMING AMENDMENTS.—Section 1903 (42 U.S.C. 1396b) is amended—

(A) in subsection (i)(22), by striking ''subsection (x)'' and inserting ''section 1902(a)(46)(B)''; and

(B) in subsection (x)(1), by striking ''subsection (i)(22)'' and inserting ''section 1902(a)(46)(B)(i)''.

(b) CLARIFICATION OF REQUIREMENTS RELATING TO PRESENTATION OF SATISFACTORY DOCUMENTARY EVIDENCE OF CITIZENSHIP OR NATIONALITY.—

(1) ACCEPTANCE OF DOCUMENTARY EVIDENCE ISSUED BY A FEDERALLY RECOGNIZED INDIAN TRIBE.—Section 1903(x)(3)(B) (42 U.S.C. 1396b(x)(3)(B)) is amended—

(A) by redesignating clause (v) as clause (vi); and

(B) by inserting after clause (iv), the following new clause:

''(v)(I) Except as provided in subclause (II), a document issued by a federally recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

''(II) With respect to those federally recognized Indian tribes located within States having an international border whose membership includes individuals who are not citizens of the United States, the Secretary shall, after consulting with such tribes, issue regulations authorizing the presentation of such other forms of documentation (including tribal documentation, if appropriate) that the Secretary determines to be satisfactory documentary evidence of citizenship or nationality for purposes of satisfying the requirement of this subsection.''.

(2) REQUIREMENT TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT SATISFACTORY DOCUMENTARY EVIDENCE.—Section 1903(x) (42 U.S.C. 1396b(x)) is amended by adding at the end the following new paragraph:

''(4) In the case of an individual declaring to be a citizen or national of the United States with respect to whom a State requires the presentation of satisfactory documentary evidence of citizenship or nationality under section 1902(a)(46)(B)(i), the individual shall be provided at least the reasonable opportunity to present satisfactory documentary evidence of citizenship or nationality under this subsection as is provided under clauses (i) and (ii) of

section 1137(d)(4)(A) to an individual for the submittal to the State of evidence indicating a satisfactory immigration status.''.

(3) CHILDREN BORN IN THE UNITED STATES TO MOTHERS ELIGIBLE FOR MEDICAID.—

(A) CLARIFICATION OF RULES.—Section 1903(x) (42 U.S.C. 1396b(x)), as amended by paragraph (2), is amended—

(i) in paragraph (2)—

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

(II) by redesignating subparagraph (D) as subparagraph (E); and

(III) by inserting after subparagraph (C) the following new subparagraph:

''(D) pursuant to the application of section 1902(e)(4) (and, in the case of an individual who is eligible for medical assistance on such basis, the individual shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence on any date that occurs during or after the period in which the individual is eligible for medical assistance on such basis); or''; and

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

''(5) Nothing in subparagraph (A) or (B) of section 1902(a)(46), the preceding paragraphs of this subsection, or the Deficit Reduction Act of 2005, including section 6036 of such Act, shall be construed as changing the requirement of section 1902(e)(4) that a child born in the United States to an alien mother for whom medical assistance for the delivery of such child is available as treatment of an emergency medical condition pursuant to subsection (v) shall be deemed eligible for medical assistance during the first year of such child's life.''.

(B) STATE REQUIREMENT TO ISSUE SEPARATE IDENTIFICATION NUMBER.—Section 1902(e)(4) (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: ''Notwithstanding the preceding sentence, in the case of a child who is born in the United States to an alien mother for whom medical assistance for the delivery of the child is made available pursuant to section 1903(v), the State immediately shall issue a separate identification number for the child upon notification by the facility at which such delivery occurred of the child's birth.''.

(4) TECHNICAL AMENDMENTS.—Section 1903(x)(2) (42 U.S.C. 1396b(x)) is amended—

(A) in subparagraph (B)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left; and

(B) in subparagraph (C)—

(i) by realigning the left margin of the matter preceding clause (i) 2 ems to the left; and

(ii) by realigning the left margins of clauses (i) and (ii), respectively, 2 ems to the left.

(c) APPLICATION OF DOCUMENTATION SYSTEM TO CHIP.—

(1) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 110(a), is amended by adding at the end the following new paragraph:

''(9) CITIZENSHIP DOCUMENTATION REQUIREMENTS.—

''(A) IN GENERAL.—No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this title unless the State meets the requirements of section 1902(a)(46)(B) with respect to the individual.

''(B) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1903(a)(3)(F) necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.''.

(2) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 202(b), is amended by adding at the end the following:

''(iii) EXPENDITURES TO COMPLY WITH CITIZENSHIP OR NATIONALITY VERIFICATION REQUIREMENTS.—Expenditures necessary for the State to comply with paragraph (9)(A).''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall take effect on October 1, 2008.

(B) TECHNICAL AMENDMENTS.—The amendments made by—

(i) paragraphs (1), (2), and (3) of subsection (b) shall take effect as if included in the enactment of section 6036 of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 80); and

(ii) paragraph (4) of subsection (b) shall take effect as if included in the enactment of section 405 of division B of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 2996).

(2) RESTORATION OF ELIGIBILITY.—In the case of an individual who, during the period that began on July 1, 2006, and ends on October 1, 2008, was determined to be ineligible for medical assistance under a State Medicaid plan, including any waiver of such plan, solely as a result of the application of subsections (i)(22) and (x) of section 1903 of the Social Security Act (as in effect during such period), but who would have been determined eligible for such assistance if such subsections, as amended by subsection (b), had applied to the individual, a State may deem the individual to be eligible for such assistance as of the date that the individual was determined to be ineligible for such medical assistance on such basis.

(3) SPECIAL TRANSITION RULE FOR INDIANS.—During the period that begins on July 1, 2006, and ends on the effective date of final regulations issued under subclause (II) of section 1903(x)(3)(B)(v) of the Social Security Act (42 U.S.C. 1396b(x)(3)(B)(v)) (as added by subsection (b)(1)(B)), an individual who is a member of a federally-recognized Indian tribe described in subclause (II) of that section who presents a document described in subclause (I) of such section that is issued by such Indian tribe, shall be deemed to have presented satisfactory evidence of citizenship or nationality for purposes of satisfying the requirement of subsection (x) of section 1903 of such Act.

SEC. 302. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT.

Section 2102(b) (42 U.S.C. 1397bb(b)) is amended—

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

(2) by inserting after paragraph (3) the following new paragraph:

''(4) REDUCTION OF ADMINISTRATIVE BARRIERS TO ENROLLMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under title XIX or for child health assistance or health benefits coverage under this title. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

''(B) DEEMED COMPLIANCE IF JOINT APPLICATION AND RENEWAL PROCESS THAT PERMITS APPLICATION OTHER THAN IN PERSON.—A State shall be deemed to comply with subparagraph (A) if the State's application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under title XIX and child health assistance under this title, and such process does not require an application to be made in person or a face-to-face interview.''.

TITLE IV—REDUCING BARRIERS TO PROVIDING PREMIUM ASSISTANCE

Subtitle A—Additional State Option for Providing Premium Assistance

SEC. 401. ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(c), is amended by adding at the end the following:

''(10) STATE OPTION TO OFFER PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER-SPONSORED COVERAGE.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), in this paragraph, the term 'qualified employer-sponsored coverage' means a group health plan or health insurance coverage offered through an employer—

''(I) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;

''(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

''(III) to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

''(ii) EXCEPTION.—Such term does not include coverage consisting of—

''(I) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

''(II) a high deductible health plan (as defined in section 223(c)(2) of such Code) purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

''(iii) COST-EFFECTIVENESS ALTERNATIVE TO REQUIRED EMPLOYER CONTRIBUTION.—A group health plan or health insurance coverage offered through an employer that would be considered qualified employer-sponsored coverage but for the application of clause (i)(II) may be deemed to satisfy the requirement of such clause if either of the following applies:

''(I) APPLICATION OF CHILD-BASED OR FAMILY-BASED TEST.—The State establishes to the satisfaction of the Secretary that the cost of such coverage is less than the expenditures that the State would have made to enroll the child or the family (as applicable) in the State child health plan.

''(II) AGGREGATE PROGRAM OPERATIONAL COSTS DO NOT EXCEED THE COST OF PROVIDING COVERAGE UNDER THE STATE CHILD HEALTH PLAN.—If subclause (I) does not apply, the

State establishes to the satisfaction of the Secretary that the aggregate amount of expenditures by the State for the purchase of all such coverage for targeted low-income children under the State child health plan (including administrative expenditures) does not exceed the aggregate amount of expenditures that the State would have made for providing coverage under the State child health plan for all such children.

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 2103(e), including the requirement to count the total amount of the employee contribution required for enrollment of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

''(ii) STATE PAYMENT OPTION.—A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee's employer.

''(iii) EMPLOYER OPT-OUT.—An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(D) APPLICATION OF SECONDARY PAYOR RULES.—The State shall be a secondary payor for any items or services provided under the qualified employer-sponsored coverage for which the State provides child health assistance under the State child health plan.

''(E) REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—Notwithstanding section 2110(b)(1)(C), the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—

''(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and

''(II) cost-sharing protection consistent with section 2103(e).

''(ii) RECORD KEEPING REQUIREMENTS.—For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

''(F) APPLICATION OF WAITING PERIOD IMPOSED UNDER THE STATE.—Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

''(G) OPT-OUT PERMITTED FOR ANY MONTH.—A State shall establish a process for permitting the parent of a targeted low-income child receiving a premium assistance subsidy to disenroll the child from the qualified employer-sponsored coverage and enroll the child in, and receive child health assistance under, the State child health plan, effective on the first day of any month for which the child is eligible for such assistance and in a manner that ensures continuity of coverage for the child.

''(H) APPLICATION TO PARENTS.—If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 2111(b), the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—

''(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the State determines it cost-effective, the cost of the enrollment of the child's family in such coverage; and

''(ii) any reference in this paragraph to a child is deemed to include a reference to the parent or, if applicable under clause (i), the family of the child.

''(I) ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE.—

''(i) IN GENERAL.—A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 2112(f)) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

''(ii) ACCESS TO CHOICE OF COVERAGE.—A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2) for employees described in clause (i).

''(J) NO EFFECT ON PREMIUM ASSISTANCE WAIVER PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007.

''(K) NOTICE OF AVAILABILITY.—If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are fully informed of the choices for receiving child health assistance under the State child health plan or through the receipt of premium assistance subsidies.

''(L) APPLICATION TO QUALIFIED EMPLOYER-SPONSORED BENCHMARK COVERAGE.—If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2), the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).''.

(b) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) A State may elect to offer a premium assistance subsidy (as defined in section 2105(c)(10)(C)) for qualified employer-sponsored coverage (as defined in section 2105(c)(10)(B)) to a child who is eligible for medical assistance under the State plan under this title, to the parent of such a child, and to a pregnant woman, in the same manner as such a subsidy for such coverage may be offered under a State child health plan under title XXI in accordance with section 2105(c)(10) (except that subparagraph (E)(i)(II) of such section shall be applied by substituting '1916 or, if applicable, 1916A' for '2103(e)').''.

(c) GAO STUDY AND REPORT.—Not later than January 1, 2009, the Comptroller General of the United States shall study cost and coverage issues relating to any State premium assistance programs for which Federal matching payments are made under title XIX or XXI of the Social Security Act, including under waiver authority, and shall submit a report to the appropriate committees of Congress on the results of such study.

SEC. 402. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE.

(a) REQUIREMENT TO INCLUDE DESCRIPTION OF OUTREACH, EDUCATION, AND ENROLLMENT EFFORTS RELATED TO PREMIUM ASSISTANCE SUBSIDIES IN STATE CHILD HEALTH PLAN.—Section 2102(c) (42 U.S.C. 1397bb(c)) is amended by adding at the end the following new paragraph:

''(3) PREMIUM ASSISTANCE SUBSIDIES.—Outreach, education, and enrollment assistance for families of children likely to be eligible for premium assistance subsidies under the State child health plan in accordance with paragraphs (2)(B), (3), or (10) of section 2105(c), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.''.

(b) NONAPPLICATION OF 10 PERCENT LIMIT ON OUTREACH AND CERTAIN OTHER EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)(C)), as amended by section 301(c)(2), is amended by adding at the end the following new clause:

''(iv) EXPENDITURES FOR OUTREACH TO INCREASE THE ENROLLMENT OF CHILDREN UNDER THIS TITLE AND TITLE XIX THROUGH PREMIUM

ASSISTANCE SUBSIDIES.—Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraphs (2)(B), (3), or (10), or a waiver approved under section 1115, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in subparagraph (B) of such paragraph).''.

Subtitle B—Coordinating Premium Assistance With Private Coverage

SEC. 411. SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF TERMINATION OF MEDICAID OR CHIP COVERAGE OR ELIGIBILITY FOR ASSISTANCE IN PURCHASE OF EMPLOYMENT-BASED COVERAGE; COORDINATION OF COVERAGE.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 9801(f) of the Internal Revenue Code of 1986 (relating to special enrollment periods) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES RELATING TO MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) EMPLOYEE OUTREACH AND DISCLOSURE.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this clause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF SUMMARY PLAN DESCRIPTION.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 411(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2007, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(A) IN GENERAL.—Section 701(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents.

''(II) MODEL NOTICE.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, the Secretary and the Secretary of Health and Human Services, in consultation with Directors of State Medicaid agencies under title XIX of the Social Security Act and Directors of State CHIP agencies under title XXI of such Act, shall jointly develop national and State-specific model notices for purposes of subparagraph (A). The Secretary shall provide employers with such model notices so as to enable employers to timely comply with the requirements of subparagraph (A). Such model notices shall include information regarding how an employee may contact the State in which the employee resides for additional information regarding potential opportunities for such premium assistance, including how to apply for such assistance.

''(III) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF SUMMARY PLAN DESCRIPTION.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of the summary plan description as provided in section 104(b).

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of a participant or beneficiary of a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 411(b)(1)(C) of the Children's Health Insurance Program Reauthorization Act of 2007, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

(B) CONFORMING AMENDMENT.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(i) by striking ''and the remedies'' and inserting '', the remedies''; and

(ii) by inserting before the period the following: '', and if the employer so elects for purposes of complying with section 701(f)(3)(B)(i), the model notice applicable to the State in which the participants and beneficiaries reside''.

(C) WORKING GROUP TO DEVELOP MODEL COVERAGE COORDINATION DISCLOSURE FORM.—

(i) MEDICAID, CHIP, AND EMPLOYER-SPONSORED COVERAGE COORDINATION WORKING GROUP.—

(I) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group (in this subparagraph referred to as the ''Working Group''). The purpose of the Working Group shall be to develop the model coverage coordination disclosure form described in subclause (II) and to identify the impediments to the effective coordination of coverage available to families that include employees of employers that maintain group health

plans and members who are eligible for medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(II) MODEL COVERAGE COORDINATION DISCLOSURE FORM DESCRIBED.—The model form described in this subclause is a form for plan administrators of group health plans to complete for purposes of permitting a State to determine the availability and cost-effectiveness of the coverage available under such plans to employees who have family members who are eligible for premium assistance offered under a State plan under title XIX or XXI of such Act and to allow for coordination of coverage for enrollees of such plans. Such form shall provide the following information in addition to such other information as the Working Group determines appropriate:

(aa) A determination of whether the employee is eligible for coverage under the group health plan.

(bb) The name and contract information of the plan administrator of the group health plan.

(cc) The benefits offered under the plan.

(dd) The premiums and cost-sharing required under the plan.

(ee) Any other information relevant to coverage under the plan.

(ii) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(I) the Department of Labor;

(II) the Department of Health and Human Services;

(III) State directors of the Medicaid program under title XIX of the Social Security Act;

(IV) State directors of the State Children's Health Insurance Program under title XXI of the Social Security Act;

(V) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(VI) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974);

(VII) health insurance issuers; and

(VIII) children and other beneficiaries of medical assistance under title XIX of the Social Security Act or child health assistance or other health benefits coverage under title XXI of such Act.

(iii) COMPENSATION.—The members of the Working Group shall serve without compensation.

(iv) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(v) REPORT.—

(I) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services the model form described in clause (i)(II) along with a report containing recommendations for appropriate measures to address the impediments to the effective coordination of coverage between group health plans and the State plans under titles XIX and XXI of the Social Security Act.

(II) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subclause (I), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under such subclause.

(vi) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under clause (v).

(D) EFFECTIVE DATES.—The Secretary of Labor and the Secretary of Health and Human Services shall develop the initial model notices under section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974, and the Secretary of Labor shall provide such notices to employers, not later than the date that is 1 year after the date of enactment of this Act, and each employer shall provide the initial annual notices to such employer's employees beginning with the first plan year that begins after the date on which such initial model notices are first issued. The model coverage coordination disclosure form developed under subparagraph (C) shall apply with respect to requests made by States beginning with the first plan year that begins after the date on which such model coverage coordination disclosure form is first issued.

(E) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(i) in subsection (a)(6), by striking ''or (8)'' and inserting ''(8), or (9)''; and

(ii) in subsection (c), by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following:

''(9)(A) The Secretary may assess a civil penalty against any employer of up to $100 a day from the date of the employer's failure to meet the notice requirement of section 701(f)(3)(B)(i)(I). For purposes of this subparagraph, each violation with respect to any single employee shall be treated as a separate violation.

''(B) The Secretary may assess a civil penalty against any plan administrator of up to $100 a day from the date of the plan administrator's failure to timely provide to any State the information required to be disclosed under section 701(f)(3)(B)(ii). For purposes of this subparagraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.''.

(2) AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Section 2701(f) of the Public Health Service Act (42 U.S.C. 300gg(f)) is amended by adding at the end the following new paragraph:

''(3) SPECIAL RULES FOR APPLICATION IN CASE OF MEDICAID AND CHIP.—

''(A) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if either of the following conditions is met:

''(i) TERMINATION OF MEDICAID OR CHIP COVERAGE.—The employee or dependent is covered under a Medicaid plan under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act and coverage of the employee or dependent under such a plan is terminated as a result of loss of eligibility for such coverage and the employee requests coverage under the group health plan (or health insurance coverage) not later than 60 days after the date of termination of such coverage.

''(ii) ELIGIBILITY FOR EMPLOYMENT ASSISTANCE UNDER MEDICAID OR CHIP.—The employee or dependent becomes eligible for assistance, with respect to coverage under the group health plan or health insurance coverage, under such Medicaid plan or State child health plan (including under any waiver or demonstration project conducted under or in relation to such a plan), if the employee requests coverage under the group health plan or health insurance coverage not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

''(B) COORDINATION WITH MEDICAID AND CHIP.—

''(i) OUTREACH TO EMPLOYEES REGARDING AVAILABILITY OF MEDICAID AND CHIP COVERAGE.—

''(I) IN GENERAL.—Each employer that maintains a group health plan in a State that provides medical assistance under a State Medicaid plan under title XIX of the Social Security Act, or child health assistance under a State child health plan under title XXI of such Act, in the form of premium assistance for the purchase of coverage under a group health plan, shall provide to each employee a written notice informing the employee of potential opportunities then currently available in the State in which the employee resides for premium assistance under such plans for health coverage of the employee or the employee's dependents. For purposes of compliance with this subclause, the employer may use any State-specific model notice developed in accordance with section 701(f)(3)(B)(i)(II) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(f)(3)(B)(i)(II)).

''(II) OPTION TO PROVIDE CONCURRENT WITH PROVISION OF SUMMARY PLAN DESCRIPTION.—An employer may provide the model notice applicable to the State in which an employee resides concurrent with the furnishing of the summary plan description as provided in section 104(b) of the Employee Retirement Income Security Act of 1974.

''(ii) DISCLOSURE ABOUT GROUP HEALTH PLAN BENEFITS TO STATES FOR MEDICAID AND CHIP ELIGIBLE INDIVIDUALS.—In the case of an enrollee in a group health plan who is covered under a Medicaid plan of a State under title XIX of the Social Security Act or under a State child health plan under title XXI of such Act, the plan administrator of the group health plan shall disclose to the State, upon request, information about the benefits available under the group health plan in sufficient specificity, as determined under regulations of the Secretary of Health and Human Services in consultation with the Secretary that require use of the model coverage coordination disclosure form developed under section 411(b)(1)(C) of the Children's Health Insurance Reauthorization Act of 2007, so as to permit the State to make a determination (under paragraph (2)(B), (3), or (10) of section 2105(c) of the Social Security Act or otherwise) concerning the cost-effectiveness of the State providing medical or child health assistance through premium assistance for the purchase of coverage under such group health plan and in order for the State to provide supplemental benefits required under paragraph (10)(E) of such section or other authority.''.

TITLE V—STRENGTHENING QUALITY OF CARE AND HEALTH OUTCOMES OF CHILDREN

SEC. 501. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.

(a) DEVELOPMENT OF CHILD HEALTH QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—Title XI (42 U.S.C. 1301 et seq.) is amended by inserting after section 1139 the following new section:

''SEC. 1139A. CHILD HEALTH QUALITY MEASURES.

''(a) DEVELOPMENT OF AN INITIAL CORE SET OF HEALTH CARE QUALITY MEASURES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2009, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under titles XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

''(2) IDENTIFICATION OF INITIAL CORE MEASURES.—In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

''(3) RECOMMENDATIONS AND DISSEMINATION.—Based on such existing and identified measures, the Secretary shall publish an initial core set of child health quality measures that includes (but is not limited to) the following:

''(A) The duration of children's health insurance coverage over a 12-month time period.

''(B) The availability of a full range of—

''(i) preventive services, treatments, and services for acute conditions, including services to promote healthy birth and prevent and treat premature birth; and

''(ii) treatments to correct or ameliorate the effects of chronic physical and mental conditions in infants, young children, school-age children, and adolescents.

''(C) The availability of care in a range of ambulatory and inpatient health care settings in which such care is furnished.

''(D) The types of measures that, taken together, can be used to estimate the overall national quality of health care for children and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

''(4) ENCOURAGE VOLUNTARY AND STANDARDIZED REPORTING.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, the Secretary, in consultation with States, shall develop a standardized format for reporting information and procedures and approaches that encourage States to use the initial core measurement set to voluntarily report information regarding the quality of pediatric health care under titles XIX and XXI.

''(5) ADOPTION OF BEST PRACTICES IN IMPLEMENTING QUALITY PROGRAMS.—The Secretary shall disseminate information to States regarding best practices among States with respect to measuring and reporting on the quality of health care for children, and shall facilitate the adoption of such best practices. In developing best practices approaches, the Secretary shall give particular attention to State measurement techniques that ensure the timeliness and accuracy of provider reporting, encourage provider reporting compliance, encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

''(6) REPORTS TO CONGRESS.—Not later than January 1, 2010, and every 3 years thereafter, the Secretary shall report to Congress on—

''(A) the status of the Secretary's efforts to improve—

''(i) quality related to the duration and stability of health insurance coverage for children under titles XIX and XXI;

''(ii) the quality of children's health care under such titles, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions and to aid in growth and development of infants, young children, school-age children, and adolescents with special health care needs; and

''(iii) the quality of children's health care under such titles across the domains of quality, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting, and elimination of racial, ethnic, and socioeconomic disparities in health and health care;

''(B) the status of voluntary reporting by States under titles XIX and XXI, utilizing the initial core quality measurement set; and

''(C) any recommendations for legislative changes needed to improve the quality of care provided to children under titles XIX and XXI, including recommendations for quality reporting by States.

''(7) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to assist them in adopting and utilizing core child health quality measures in administering the State plans under titles XIX and XXI.

''(8) DEFINITION OF CORE SET.—In this section, the term 'core set' means a group of valid, reliable, and evidence-based quality measures that, taken together—

''(A) provide information regarding the quality of health coverage and health care for children;

''(B) address the needs of children throughout the developmental age span; and

''(C) allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services whose purpose is to correct or ameliorate physical, mental, or developmental conditions that could, if untreated or poorly treated, become chronic.

''(b) ADVANCING AND IMPROVING PEDIATRIC QUALITY MEASURES.—

''(1) ESTABLISHMENT OF PEDIATRIC QUALITY MEASURES PROGRAM.—Not later than January 1, 2010, the Secretary shall establish a pediatric quality measures program to—

''(A) improve and strengthen the initial core child health care quality measures established by the Secretary under subsection (a);

''(B) expand on existing pediatric quality measures used by public and private health care purchasers and advance the development of such new and emerging quality measures; and

''(C) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchasers of children's health care services, providers, and consumers.

''(2) EVIDENCE-BASED MEASURES.—The measures developed under the pediatric quality measures program shall, at a minimum, be—

''(A) evidence-based and, where appropriate, risk adjusted;

''(B) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care;

''(C) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparison of quality and data at a State, plan, and provider level;

''(D) periodically updated; and

''(E) responsive to the child health needs, services, and domains of health care quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A).

''(3) PROCESS FOR PEDIATRIC QUALITY MEASURES PROGRAM.—In identifying gaps in existing pediatric quality measures and establishing priorities for development and advancement of such measures, the Secretary shall consult with—

''(A) States;

''(B) pediatricians, children's hospitals, and other primary and specialized pediatric health care professionals (including members of the allied health professions) who specialize in the care and treatment of children, particularly children with special physical, mental, and developmental health care needs;

''(C) dental professionals, including pediatric dental professionals;

''(D) health care providers that furnish primary health care to children and families who live in urban and rural medically underserved communities or who are members of distinct population sub-groups at heightened risk for poor health outcomes;

''(E) national organizations representing consumers and purchasers of children's health care;

''(F) national organizations and individuals with expertise in pediatric health quality measurement; and

''(G) voluntary consensus standards setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

''(4) DEVELOPING, VALIDATING, AND TESTING A PORTFOLIO OF PEDIATRIC QUALITY MEASURES.—As part of the program to advance pediatric quality measures, the Secretary shall—

''(A) award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality described in clauses (i), (ii), and (iii) of subsection (a)(6)(A); and

''(B) award grants and contracts for—

''(i) the development of consensus on evidence-based measures for children's health care services;

''(ii) the dissemination of such measures to public and private purchasers of health care for children; and

''(iii) the updating of such measures as necessary.

''(5) REVISING, STRENGTHENING, AND IMPROVING INITIAL CORE MEASURES.—Beginning no later than January 1, 2012, and annually thereafter, the Secretary shall publish recommended changes to the core measures described in subsection (a) that shall reflect the testing, validation, and consensus process for the development of pediatric quality measures described in subsection paragraphs (1) through (4).

''(6) DEFINITION OF PEDIATRIC QUALITY MEASURE.—In this subsection, the term 'pediatric quality measure' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess 1 or more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

''(c) ANNUAL STATE REPORTS REGARDING STATE-SPECIFIC QUALITY OF CARE MEASURES APPLIED UNDER MEDICAID OR CHIP.—

''(1) ANNUAL STATE REPORTS.—Each State with a State plan approved under title XIX or a State child health plan approved under title XXI shall annually report to the Secretary on the—

''(A) State-specific child health quality measures applied by the States under such plans, including measures described in subparagraphs (A) and (B) of subsection (a)(6); and

''(B) State-specific information on the quality of health care furnished to children under such plans, including information collected through external quality reviews of managed care organizations under section 1932 of the Social Security Act (42 U.S.C. 1396u–4) and benchmark plans under sections 1937 and 2103 of such Act (42 U.S.C. 1396u–7, 1397cc).

''(2) PUBLICATION.—Not later than September 30, 2009, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

''(d) DEMONSTRATION PROJECTS FOR IMPROVING THE QUALITY OF CHILDREN'S HEALTH CARE AND THE USE OF HEALTH INFORMATION TECHNOLOGY.—

''(1) IN GENERAL.—During the period of fiscal years 2008 through 2012, the Secretary shall award not more than 10 grants to States and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care provided under title XIX or XXI, including projects to—

''(A) experiment with, and evaluate the use of, new measures of the quality of children's health care under such titles (including testing the validity and suitability for reporting of such measures);

''(B) promote the use of health information technology in care delivery for children under such titles;

''(C) evaluate provider-based models which improve the delivery of children's health care services under such titles, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety, and efficiency of health care services for children; or

''(D) demonstrate the impact of the model electronic health record format for children developed and disseminated under subsection (f) on improving pediatric health, including the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

''(2) REQUIREMENTS.—In awarding grants under this subsection, the Secretary shall ensure that—

''(A) only 1 demonstration project funded under a grant awarded under this subsection shall be conducted in a State; and

''(B) demonstration projects funded under grants awarded under this subsection shall be conducted evenly between States with large urban areas and States with large rural areas.

''(3) AUTHORITY FOR MULTISTATE PROJECTS.—A demonstration project conducted with a grant awarded under this subsection may be conducted on a multistate basis, as needed.

''(4) FUNDING.—$20,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(e) CHILDHOOD OBESITY DEMONSTRATION PROJECT.—

''(1) AUTHORITY TO CONDUCT DEMONSTRATION.—The Secretary, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such project. Such model shall—

''(A) identify, through self-assessment, behavioral risk factors for obesity among children;

''(B) identify, through self-assessment, needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors;

''(C) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and

''(D) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under title XIX or child health assistance is available under title XXI among such target individuals.

''(2) ELIGIBILITY ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

''(A) A city, county, or Indian tribe.

''(B) A local or tribal educational agency.

''(C) An accredited university, college, or community college.

''(D) A Federally-qualified health center.

''(E) A local health department.

''(F) A health care provider.

''(G) A community-based organization.

''(H) Any other entity determined appropriate by the Secretary, including a consortia or partnership of entities described in any of subparagraphs (A) through (G).

''(3) USE OF FUNDS.—An eligible entity awarded a grant under this subsection shall use the funds made available under the grant to—

''(A) carry out community-based activities related to reducing childhood obesity, including by—

''(i) forming partnerships with entities, including schools and other facilities providing recreational services, to establish programs for after school and weekend community activities that are designed to reduce childhood obesity;

''(ii) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(iii) developing and evaluating community educational activities targeting good nutrition and promoting healthy eating behaviors;

''(B) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, including by—

''(i) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(I) after hours physical activity programs; and

''(II) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(ii) providing education and training to educational professionals regarding how to promote a healthy lifestyle and a healthy school environment for children;

''(iii) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(iv) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity for children;

''(C) carry out educational, counseling, promotional, and training activities through the local health care delivery systems including by—

''(i) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(ii) providing patient education and counseling to increase physical activity and promote healthy eating behaviors;

''(iii) training health professionals on how to identify and treat obese and overweight individuals which may include nutrition and physical activity counseling; and

''(iv) providing community education by a health professional on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; and

''(D) provide, through qualified health professionals, training and supervision for community health workers to—

''(i) educate families regarding the relationship between nutrition, eating habits, physical activity, and obesity;

''(ii) educate families about effective strategies to improve nutrition, establish healthy eating patterns, and establish appropriate levels of physical activity; and

''(iii) educate and guide parents regarding the ability to model and communicate positive health behaviors.

''(4) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to awarding grants to eligible entities—

''(A) that demonstrate that they have previously applied successfully for funds to carry out activities that seek to promote individual and community health and to prevent the incidence of chronic disease and that can cite published and peer-reviewed research demonstrating that the activities that the entities propose to carry out with funds made available under the grant are effective;

''(B) that will carry out programs or activities that seek to accomplish a goal or goals set by the State in the Healthy People 2010 plan of the State;

''(C) that provide non-Federal contributions, either in cash or in-kind, to the costs of funding activities under the grants;

''(D) that develop comprehensive plans that include a strategy for extending program activities developed under grants in the years following the fiscal years for which they receive grants under this subsection;

''(E) located in communities that are medically underserved, as determined by the Secretary;

''(F) located in areas in which the average poverty rate is at least 150 percent or higher of the average poverty rate in the State involved, as determined by the Secretary; and

''(G) that submit plans that exhibit multisectoral, cooperative conduct that includes the involvement of a broad range of stakeholders, including—

''(i) community-based organizations;

''(ii) local governments;

''(iii) local educational agencies;

''(iv) the private sector;

''(v) State or local departments of health;

''(vi) accredited colleges, universities, and community colleges;

''(vii) health care providers;

''(viii) State and local departments of transportation and city planning; and

''(ix) other entities determined appropriate by the Secretary.

''(5) PROGRAM DESIGN.—

''(A) INITIAL DESIGN.—Not later than 1 year after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, the Secretary shall design the demonstration project. The demonstration should draw upon promising, innovative models and incentives to reduce behavioral risk factors. The Administrator of the Centers for Medicare & Medicaid Services shall consult with the Director of the Centers for Disease Control and Prevention, the Director of the Office of Minority Health, the heads of other agencies in the Department of Health and Human Services, and such professional organizations, as the Secretary determines to be appropriate, on the design, conduct, and evaluation of the demonstration.

''(B) NUMBER AND PROJECT AREAS.—Not later than 2 years after the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007, the Secretary shall award 1 grant that is specifically designed to determine whether programs similar to programs to be conducted by other grantees under this subsection should be implemented with respect to the general population of children who are eligible for child health assistance under State child health plans under title XXI in order to reduce the incidence of childhood obesity among such population.

''(6) REPORT TO CONGRESS.—Not later than 3 years after the date the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates the beneficiary satisfaction under the project, and includes any such other information as the Secretary determines to be appropriate.

''(7) DEFINITIONS.—In this subsection:

''(A) FEDERALLY-QUALIFIED HEALTH CENTER.—The term 'Federally-qualified health center' has the meaning given that term in section 1905(l)(2)(B).

''(B) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given that term in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(C) SELF-ASSESSMENT.—The term 'self-assessment' means a form that—

''(i) includes questions regarding—

''(I) behavioral risk factors;

''(II) needed preventive and screening services; and

''(III) target individuals' preferences for receiving follow-up information;

''(ii) is assessed using such computer generated assessment programs; and

''(iii) allows for the provision of such ongoing support to the individual as the Secretary determines appropriate.

''(D) ONGOING SUPPORT.—The term 'ongoing support' means—

''(i) to provide any target individual with information, feedback, health coaching, and recommendations regarding—

''(I) the results of a self-assessment given to the individual;

''(II) behavior modification based on the self-assessment; and

''(III) any need for clinical preventive and screening services or treatment including medical nutrition therapy;

''(ii) to provide any target individual with referrals to community resources and programs available to assist the target individual in reducing health risks; and

''(iii) to provide the information described in clause (i) to a health care provider, if designated by the target individual to receive such information.

''(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection, $25,000,000 for the period of fiscal years 2008 through 2012.

''(f) DEVELOPMENT OF MODEL ELECTRONIC HEALTH RECORD FORMAT FOR CHILDREN ENROLLED IN MEDICAID OR CHIP.—

''(1) IN GENERAL.—Not later than January 1, 2009, the Secretary shall establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled in the State plan under title XIX or the State child health plan under title XXI that is—

''(A) subject to State laws, accessible to parents, caregivers, and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, such as appropriate immunizations or physicals;

''(B) designed to allow interoperable exchanges that conform with Federal and State privacy and security requirements;

''(C) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality; and

''(D) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records.

''(2) FUNDING.—$5,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(g) STUDY OF PEDIATRIC HEALTH AND HEALTH CARE QUALITY MEASURES.—

''(1) IN GENERAL.—Not later than July 1, 2009, the Institute of Medicine shall study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments aimed at ameliorating or correcting physical, mental, and developmental conditions in children. In conducting such study and preparing such report, the Institute of Medicine shall—

''(A) consider all of the major national population-based reporting systems sponsored by the Federal Government that are currently in place, including reporting requirements under Federal grant programs and national population surveys and estimates conducted directly by the Federal Government;

''(B) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information so generated is made widely available through publication;

''(C) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment; and

''(D) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care quality.

''(2) FUNDING.—Up to $1,000,000 of the amount appropriated under subsection (i) for a fiscal year shall be used to carry out this subsection.

''(h) RULE OF CONSTRUCTION.—Notwithstanding any other provision in this section, no evidence based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving medical assistance under title XIX or child health assistance under title XXI .

''(i) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2008 through 2012, $45,000,000 for the purpose of carrying out this section (other than subsection (e)). Funds appropriated under this subsection shall remain available until expended.''.

(b) INCREASED MATCHING RATE FOR COLLECTING AND REPORTING ON CHILD HEALTH MEASURES.—Section 1903(a)(3)(A) (42 U.S.C. 1396b(a)(3)(A)), is amended—

(1) by striking ''and'' at the end of clause (i); and

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

''(iii) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such developments or modifications of systems of the type described in clause (i) as are necessary for the efficient collection and reporting on child health measures; and''.

SEC. 502. IMPROVED INFORMATION REGARDING ACCESS TO COVERAGE UNDER CHIP.

(a) INCLUSION OF PROCESS AND ACCESS MEASURES IN ANNUAL STATE REPORTS.—Section 2108 (42 U.S.C. 1397hh) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''The State'' and inserting ''Subject to subsection (e), the State''; and

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

''(e) INFORMATION REQUIRED FOR INCLUSION IN STATE ANNUAL REPORT.—The State shall include the following information in the annual report required under subsection (a):

''(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

''(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

''(3) Data regarding denials of eligibility and redeterminations of eligibility.

''(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

''(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effective strategies the State engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage provided under the State child health plan from substituting for coverage provided under employer-sponsored health insurance offered in the State.

''(6) To the extent applicable, a description of any State activities that are designed to reduce the number of uncovered children in the State, including through a State health insurance connector program or support for innovative private health coverage initiatives.''.

(b) GAO STUDY AND REPORT ON ACCESS TO PRIMARY AND SPECIALITY SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of primary and specialty services under such programs;

(D) the extent to which care coordination is provided for children's care under Medicaid and CHIP; and

(E) as appropriate, information on the degree of availability of services for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of Congress on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SEC. 503. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP.

Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by section 204(b), is amended by redesignating subparagraph (E) (as added by such section) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) Subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1932 (relating to requirements for managed care).''.

TITLE VI—MISCELLANEOUS

SEC. 601. TECHNICAL CORRECTION REGARDING CURRENT STATE AUTHORITY UNDER MEDICAID.

(a) IN GENERAL.—Only with respect to expenditures for medical assistance under a State Medicaid plan, including any waiver of such plan, for fiscal years 2007 and 2008, a State may elect, notwithstanding the fourth sentence of subsection (b) of section 1905 of the Social Security Act (42 U.S.C. 1396d) or subsection (u) of such section—

(1) to cover individuals described in section 1902(a)(10)(A)(ii)(IX) of the Social Security Act and, at its option, to apply less restrictive methodologies to such individuals under section 1902(r)(2) of such Act or 1931(b)(2)(C) of such Act and thereby receive Federal financial participation for medical assistance for such individuals under title XIX of the Social Security Act; or

(2) to receive Federal financial participation for expenditures for medical assistance under title XIX of such Act for children described in paragraph (2)(B) or (3) of section 1905(u) of such Act based on the Federal medical assistance percentage, as otherwise determined based on the first and third sentences of subsection (b) of section 1905 of the Social Security Act, rather than on the basis of an enhanced FMAP (as defined in section 2105(b) of such Act).

(b) REPEAL.—Effective October 1, 2008, subsection (a) is repealed.

(c) HOLD HARMLESS.—No State that elects the option described in subsection (a) shall be treated as not having been authorized to make such election and to receive Federal financial participation for expenditures for medical assistance

described in that subsection for fiscal years 2007 and 2008 as a result of the repeal of the subsection under subsection (b).

SEC. 602. PAYMENT ERROR RATE MEASUREMENT ("PERM").

(a) EXPENDITURES RELATED TO COMPLIANCE WITH REQUIREMENTS.—

(1) ENHANCED PAYMENTS.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 401(a), is amended by adding at the end the following new paragraph:

''(11) ENHANCED PAYMENTS.—Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.''.

(2) EXCLUSION OF FROM CAP ON ADMINISTRATIVE EXPENDITURES.—Section 2105(c)(2)(C) (42 U.S.C. 1397ee(c)(2)C)), as amended by section 402(b), is amended by adding at the end the following:

''(v) PAYMENT ERROR RATE MEASUREMENT (PERM) EXPENDITURES.—Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).''.

(b) FINAL RULE REQUIRED TO BE IN EFFECT FOR ALL STATES.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ''PERM'') requirements to CHIP until after the date that is 6 months after the date on which a final rule implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such final rule in effect for all States may only be inclusive of errors, as defined in such final rule or in guidance issued within a reasonable time frame after the effective date for such final rule that includes detailed guidance for the specific methodology for error determinations.

(c) REQUIREMENTS FOR FINAL RULE.—For purposes of subsection (b), the requirements of this subsection are that the final rule implementing the PERM requirements shall include—

(1) clearly defined criteria for errors for both States and providers;

(2) a clearly defined process for appealing error determinations by review contractors; and

(3) clearly defined responsibilities and deadlines for States in implementing any corrective action plans.

(d) OPTION FOR APPLICATION OF DATA FOR CERTAIN STATES UNDER THE INTERIM FINAL RULE.—

(1) OPTION FOR STATES IN FIRST APPLICATION CYCLE.—After the final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2010 were the first fiscal year for which the PERM requirements apply to the State.

(2) OPTION FOR STATES IN SECOND APPLICATION CYCLE.—If such final rule is not in effect for all States by July 1, 2008, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2008 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to not have any payment error rate determined on the basis of such data and, instead, shall be treated as if fiscal year 2011 were the first fiscal year for which the PERM requirements apply to the State.

(e) HARMONIZATION OF MEQC AND PERM.—

(1) REDUCTION OF REDUNDANCIES.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ''MEQC'') requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies.

(2) STATE OPTION TO APPLY PERM DATA.—A State may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with fiscal year 2009, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

SEC. 603. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT.

Section 2105(a)(1) (42 U.S.C. 1397ee(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1905(b)))''; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) [reserved]''.

SEC. 604. IMPROVING DATA COLLECTION.

(a) INCREASED APPROPRIATION.—Section 2109(b)(2) (42 U.S.C. 1397ii(b)(2)) is amended by striking ''$10,000,000 for fiscal year 2000'' and inserting ''$20,000,000 for fiscal year 2008''.

(b) USE OF ADDITIONAL FUNDS.—Section 2109(b) (42 U.S.C. 1397ii(b)), as amended by subsection (a), is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1), the following new paragraphs:

''(2) ADDITIONAL REQUIREMENTS.—In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2008, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

''(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under title XIX or this title.

''(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to compile the State-specific and national number of low-income children without health insurance for purposes of determining allotments under subsections (c) and (i) of section 2104 and making payments to States from the CHIP Incentive Bonuses Pool established under subsection (j) of such section, the CHIP Contingency Fund established under subsection (k) of such section, and, to the extent applicable to a State, from the block grant set aside under section 2111(b)(2)(B)(i) for each of fiscal years 2010 through 2012.

''(C) Include health insurance survey information in the American Community Survey related to children.

''(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

''(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

''(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

''(3) AUTHORITY FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES TO TRANSITION TO THE USE OF ALL, OR SOME COMBINATION OF, ACS ESTIMATES UPON RECOMMENDATION OF THE SECRETARY OF COMMERCE.—If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this title.''.

SEC. 605. DEFICIT REDUCTION ACT TECHNICAL CORRECTIONS.

(a) STATE FLEXIBILITY IN BENEFIT PACKAGES.—

(1) CLARIFICATION OF REQUIREMENT TO PROVIDE EPSDT SERVICES FOR ALL CHILDREN IN BENCHMARK BENEFIT PACKAGES.—Section 1937(a)(1) (42 U.S.C. 1396u–7(a)(1)), as inserted by section 6044(a) of the Deficit Reduction Act of 2005 (Public Law 109–171, 120 Stat. 88), is amended—

(A) in subparagraph (A)—

(i) in the matter before clause (i), by striking ''enrollment in coverage that provides'' and inserting ''coverage that'';

(ii) in clause (i), by inserting ''provides'' after ''(i)''; and

(iii) by striking clause (ii) and inserting the following:

''(ii) for any individual described in section 1905(a)(4)(B) who is eligible under the State plan in accordance with paragraphs (10) and (17) of section 1902(a), consists of the items and services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with the requirements of section 1902(a)(43).'';

(B) in subparagraph (C)—

(i) in the heading, by striking ''WRAP-AROUND'' and inserting ''ADDITIONAL''; and

(ii) by striking ''wrap-around or''; and

(C) by adding at the end the following new subparagraph:

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as—

''(i) requiring a State to offer all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2); or

''(ii) preventing a State from offering all or any of the items and services required by subparagraph (A)(ii) through an issuer of benchmark coverage described in subsection (b)(1) or benchmark equivalent coverage described in subsection (b)(2).''.

(2) CORRECTION OF REFERENCE TO CHILDREN IN FOSTER CARE RECEIVING CHILD WELFARE SERVICES.—Section 1937(a)(2)(B)(viii) (42 U.S.C. 1396u–7(a)(2)(B)(viii), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by striking ''aid or assistance is made available under part B of title IV to children in foster care and individuals'' and inserting ''child welfare services are made available under part B of title IV on the basis of being a child in foster care or''.

(3) TRANSPARENCY.—Section 1937 (42 U.S.C. 1396u–7), as inserted by section 6044(a) of the Deficit Reduction Act of 2005, is amended by adding at the end the following:

''(c) PUBLICATION OF PROVISIONS AFFECTED.—Not later than 30 days after the date the Secretary approves a State plan amendment to provide benchmark benefits in accordance with subsections (a) and (b), the Secretary shall publish in the Federal Register and on the Internet website of the Centers for Medicare & Medicaid Services, a list of the provisions of this title that the Secretary has determined do not apply in order to enable the State to carry out such plan amendment and the reason for each such determination.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendment made by section 6044(a) of the Deficit Reduction Act of 2005.

SEC. 606. ELIMINATION OF CONFUSING PROGRAM REFERENCES.

Section 704 of the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, as enacted into law by division B of Public Law 106–113 (113 Stat. 1501A–402) is repealed.

SEC. 607. MENTAL HEALTH PARITY IN CHIP PLANS.

(a) ASSURANCE OF PARITY.—Section 2103(c) (42 U.S.C. 1397cc(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4), the following:

''(5) MENTAL HEALTH SERVICES PARITY.—

''(A) IN GENERAL.—In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance abuse benefits, such plan shall ensure that the financial requirements and treatment limitations applicable to such mental health or substance abuse benefits are no more restrictive than the financial requirements and treatment limitations applied to substantially all medical and surgical benefits covered by the plan.

''(B) DEEMED COMPLIANCE.—To the extent that a State child health plan includes coverage with respect to an individual described in section 1905(a)(4)(B) and covered under the State plan under section 1902(a)(10)(A) of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services defined in section 1905(r)) and provided in accordance with section 1902(a)(43), such plan shall be deemed to satisfy the requirements of subparagraph (A).''.

(b) CONFORMING AMENDMENTS.—Section 2103 (42 U.S.C. 1397cc) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (6) of subsection (c)''; and

(2) in subsection (c)(2), by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

SEC. 608. DENTAL HEALTH GRANTS.

(a) IN GENERAL.—Title XXI (42 U.S.C. 1397aa et seq.), as amended by section 201, is amended by adding at the end the following:

''SEC. 2114. DENTAL HEALTH GRANTS.

''(a) AUTHORITY TO AWARD GRANTS.—

''(1) IN GENERAL.—From the amount appropriated under subsection (f), the Secretary shall award grants from amounts to eligible States for the purpose of carrying out programs and activities that are designed to improve the availability of dental services and strengthen dental coverage for targeted low-income children enrolled in State child health plans.

''(2) ELIGIBLE STATE.—In this section, the term 'eligible State' means a State with an approved State child health plan under this title that submits an application under subsection (b) that is approved by Secretary.

''(b) APPLICATION.—An eligible State that desires to receive a grant under this paragraph shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may require. Such application shall include—

''(1) a detailed description of—

''(A) the dental services (if any) covered under the State child health plan; and

''(B) how the State intends to improve dental coverage and services during fiscal years 2008 through 2012;

''(2) a detailed description of the programs and activities proposed to be conducted with funds awarded under the grant;

''(3) quality and outcomes performance measures to evaluate the effectiveness of such activities; and

''(4) an assurance that the State shall—

''(A) conduct an assessment of the effectiveness of such activities against such performance measures; and

''(B) cooperate with the collection and reporting of data and other information determined as a result of conducting such assessments to the Secretary, in such form and manner as the Secretary shall require.

''(c) USE OF FUNDS.—The programs and activities described in subsection (a)(1) may include the provision of enhanced dental coverage under the State child health plan.

''(d) MAINTENANCE OF EFFORT FOR STATES AWARDED GRANTS; NO STATE MATCH REQUIRED.—In the case of a State that is awarded a grant under this section—

''(1) the State share of funds expended for dental services under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded; and

''(2) no State matching funds shall be required for the State to receive a grant under this section.

''(e) ANNUAL REPORT.—The Secretary shall submit an annual report to the appropriate committees of Congress regarding the grants awarded under this section that includes—

''(1) State specific descriptions of the programs and activities conducted with funds awarded under such grants; and

''(2) information regarding the assessments required of States under subsection (b)(4).

''(f) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated, $200,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended, for the purpose of awarding grants to States under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105.''.

(b) IMPROVED ACCESSIBILITY OF DENTAL PROVIDER INFORMATION MORE ACCESSIBLE TO ENROLLEES UNDER MEDICAID AND CHIP.—The Secretary shall—

(1) work with States, pediatric dentists, and other dental providers to include on the Insure Kids Now website (http://www.insurekidsnow.gov/) and hotline (1–877–KIDS–NOW) a current and accurate list of all dentists and other dental providers within each State that provide dental services to children enrolled in the State plan (or waiver) under Medicaid or the State child health plan (or waiver) under CHIP, and shall ensure that such list is updated at least quarterly; and

(2) work with States to include a description of the dental services provided under each State plan (or waiver) under Medicaid and each State child health plan (or waiver) under CHIP on such Insure Kids Now website.

(c) GAO STUDY AND REPORT ON ACCESS TO ORAL HEALTH CARE, INCLUDING PREVENTIVE AND RESTORATIVE SERVICES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of children's access to oral health care, including preventive and restorative services, under Medicaid and CHIP, including—

(A) the extent to which providers are willing to treat children eligible for such programs;

(B) information on such children's access to networks of care;

(C) geographic availability of oral health care, including preventive and restorative services, under such programs; and

(D) as appropriate, information on the degree of availability of oral health care, including preventive and restorative services, for children under such programs.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to the appropriate committees of Congress on the study conducted under paragraph (1) that includes recommendations for such Federal and State legislative and administrative changes as the Comptroller General determines are necessary to address any barriers to access to oral health care, including preventive and restorative services, under Medicaid and CHIP that may exist.

(d) INCLUSION OF STATUS OF EFFORTS TO IMPROVE DENTAL CARE IN REPORTS ON THE QUALITY OF CHILDREN'S HEALTH CARE UNDER MEDICAID AND CHIP.—Section 1139A(a)(6)(ii), as added by section 501(a), is amended by inserting ''dental care,'' after ''preventive health services,''.

SEC. 609. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) APPLICATION OF PROSPECTIVE PAYMENT SYSTEM.—

(1) IN GENERAL.—Section 2107(e)(1) (42 U.S.C. 1397gg(e)(1)), as amended by sections 204(b) and 503, is amended by inserting after subparagraph (A) the following new subparagraph (and redesignating the succeeding subparagraphs accordingly):

''(B) Section 1902(bb) (relating to payment for services provided by Federally-qualified health centers and rural health clinics).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services provided on or after October 1, 2008.

(b) TRANSITION GRANTS.—

(1) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary for fiscal year 2008, $5,000,000, to remain available until expended, for the purpose of awarding grants to States with State child health plans under CHIP that are operated separately from the State Medicaid plan under title XIX of the Social Security Act (including any waiver of such plan), or in combination with the State Medicaid plan, for expenditures related to transitioning to compliance with the requirement of section 2107(e)(1)(B) of the Social Security Act (as

added by subsection (a)) to apply the prospective payment system established under section 1902(bb) of the such Act (42 U.S.C. 1396a(bb)) to services provided by Federally-qualified health centers and rural health clinics.

(2) MONITORING AND REPORT.—The Secretary shall monitor the impact of the application of such prospective payment system on the States described in paragraph (1) and, not later than October 1, 2010, shall report to Congress on any effect on access to benefits, provider payment rates, or scope of benefits offered by such States as a result of the application of such payment system.

SEC. 610. SUPPORT FOR INJURED SERVICEMEMBERS.

(a) SHORT TITLE.—This section may be cited as the ''Support for Injured Servicemembers Act''.

(b) SERVICEMEMBER FAMILY LEAVE.—

(1) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

''(14) ACTIVE DUTY.—The term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

''(15) COVERED SERVICEMEMBER.—The term 'covered servicemember' means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy, is otherwise in medical hold or medical holdover status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

''(16) MEDICAL HOLD OR MEDICAL HOLDOVER STATUS.—The term 'medical hold or medical holdover status' means—

''(A) the status of a member of the Armed Forces, including a member of the National Guard or a Reserve, assigned or attached to a military hospital for medical care; and

''(B) the status of a member of a reserve component of the Armed Forces who is separated, whether pre-deployment or post-deployment, from the member's unit while in need of health care based on a medical condition identified while the member is on active duty in the Armed Forces.

''(17) NEXT OF KIN.—The term 'next of kin', used with respect to an individual, means the nearest blood relative of that individual.

''(18) SERIOUS INJURY OR ILLNESS.—The term 'serious injury or illness', in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.''.

(2) ENTITLEMENT TO LEAVE.—Section 102(a) of such Act (29 U.S.C. 2612(a)) is amended by adding at the end the following:

''(3) SERVICEMEMBER FAMILY LEAVE.—Subject to section 103, an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

''(4) COMBINED LEAVE TOTAL.—During the single 12-month period described in paragraph (3), an eligible employee shall be entitled to a combined total of 26 workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.''.

(3) REQUIREMENTS RELATING TO LEAVE.—

(A) SCHEDULE.—Section 102(b) of such Act (29 U.S.C. 2612(b)) is amended—

(i) in paragraph (1), in the second sentence—

(I) by striking ''section 103(b)(5)'' and inserting ''subsection (b)(5) or (f) (as appropriate) of section 103''; and

(II) by inserting ''or under subsection (a)(3)'' after ''subsection (a)(1)''; and

(ii) in paragraph (2), by inserting ''or under subsection (a)(3)'' after ''subsection (a)(1)''.

(B) SUBSTITUTION OF PAID LEAVE.—Section 102(d) of such Act (29 U.S.C. 2612(d)) is amended—

(i) in paragraph (1)—

(I) by inserting ''(or 26 workweeks in the case of leave provided under subsection (a)(3))'' after ''12 workweeks'' the first place it appears; and

(II) by inserting ''(or 26 workweeks, as appropriate)'' after ''12 workweeks'' the second place it appears; and

(ii) in paragraph (2)(B), by adding at the end the following: ''An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, family leave, or medical or sick leave of the employee for leave provided under subsection (a)(3) for any part of the 26-week period of such leave under such subsection.''.

(C) NOTICE.—Section 102(e)(2) of such Act (29 U.S.C. 2612(e)(2)) is amended by inserting ''or under subsection (a)(3)'' after ''subsection (a)(1)''.

(D) SPOUSES EMPLOYED BY SAME EMPLOYER.—Section 102(f) of such Act (29 U.S.C. 2612(f)) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), and aligning the margins of the subparagraphs with the margins of section 102(e)(2)(A);

(ii) by striking ''In any'' and inserting the following:

''(1) IN GENERAL.—In any''; and

(iii) by adding at the end the following:

''(2) SERVICEMEMBER FAMILY LEAVE.—

''(A) IN GENERAL.—The aggregate number of workweeks of leave to which both that husband and wife may be entitled under subsection (a) may be limited to 26 workweeks during the single 12-month period described in subsection (a)(3) if the leave is—

''(i) leave under subsection (a)(3); or

''(ii) a combination of leave under subsection (a)(3) and leave described in paragraph (1).

''(B) BOTH LIMITATIONS APPLICABLE.—If the leave taken by the husband and wife includes leave described in paragraph (1), the limitation in paragraph (1) shall apply to the leave described in paragraph (1).''.

(E) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

''(f) CERTIFICATION FOR SERVICEMEMBER FAMILY LEAVE.—An employer may require that a request for leave under section 102(a)(3) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.''.

(F) FAILURE TO RETURN.—Section 104(c) of such Act (29 U.S.C. 2614(c)) is amended—

(i) in paragraph (2)(B)(i), by inserting ''or under section 102(a)(3)'' before the semicolon; and

(ii) in paragraph (3)(A)—

(I) in clause (i), by striking ''or'' at the end;

(II) in clause (ii), by striking the period and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) a certification issued by the health care provider of the servicemember being cared for by the employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(3).''.

(G) ENFORCEMENT.—Section 107 of such Act (29 U.S.C. 2617) is amended, in subsection (a)(1)(A)(i)(II), by inserting ''(or 26 weeks, in a case involving leave under section 102(a)(3))'' after ''12 weeks''.

(H) INSTRUCTIONAL EMPLOYEES.—Section 108 of such Act (29 U.S.C. 2618) is amended, in subsections (c)(1), (d)(2), and (d)(3), by inserting ''or under section 102(a)(3)'' after ''section 102(a)(1)''.

(c) SERVICEMEMBER FAMILY LEAVE FOR CIVIL SERVICE EMPLOYEES.—

(1) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(7) the term 'active duty' means duty under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code;

''(8) the term 'covered servicemember' means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy, is otherwise in medical hold or medical holdover status, or is otherwise on the temporary disability retired list, for a serious injury or illness;

''(9) the term 'medical hold or medical holdover status' means—

''(A) the status of a member of the Armed Forces, including a member of the National Guard or a Reserve, assigned or attached to a military hospital for medical care; and

''(B) the status of a member of a reserve component of the Armed Forces who is separated, whether pre-deployment or post-deployment, from the member's unit while in need of health care based on a medical condition identified while the member is on active duty in the Armed Forces;

''(10) the term 'next of kin', used with respect to an individual, means the nearest blood relative of that individual; and

''(11) the term 'serious injury or illness', in the case of a member of the Armed Forces, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.''.

(2) ENTITLEMENT TO LEAVE.—Section 6382(a) of such title is amended by adding at the end the following:

''(3) Subject to section 6383, an employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 administrative workweeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period.

''(4) During the single 12-month period described in paragraph (3), an employee shall be entitled to a combined total of 26 administrative workweeks of leave under paragraphs (1) and (3). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (1) during any other 12-month period.''.

(3) REQUIREMENTS RELATING TO LEAVE.—

(A) SCHEDULE.—Section 6382(b) of such title is amended—

(i) in paragraph (1), in the second sentence—

(I) by striking ''section 6383(b)(5)'' and inserting ''subsection (b)(5) or (f) (as appropriate) of section 6383''; and

(II) by inserting ''or under subsection (a)(3)'' after ''subsection (a)(1)''; and

(ii) in paragraph (2), by inserting ''or under subsection (a)(3)'' after ''subsection (a)(1)''.

(B) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by adding at the end the following: ''An employee may elect to substitute for leave under subsection (a)(3) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 26-week period of leave under such subsection.''.

(C) NOTICE.—Section 6382(e) of such title is amended by inserting ''or under subsection (a)(3)'' after ''subsection (a)(1)''.

(D) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

''(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.''.

SEC. 611. MILITARY FAMILY JOB PROTECTION.

(a) SHORT TITLE.—This section may be cited as the ''Military Family Job Protection Act''.

(b) PROHIBITION ON DISCRIMINATION IN EMPLOYMENT AGAINST CERTAIN FAMILY MEMBERS CARING FOR RECOVERING MEMBERS OF THE ARMED FORCES.—A family member of a recovering servicemember described in subsection (c) shall not be denied retention in employment, promotion, or any benefit of employment by an employer on the basis of the family member's absence from employment as described in that subsection, for a period of not more than 52 workweeks.

(c) COVERED FAMILY MEMBERS.—A family member described in this subsection is a family member of a recovering servicemember who is—

(1) on invitational orders while caring for the recovering servicemember;

(2) a non-medical attendee caring for the recovering servicemember; or

(3) receiving per diem payments from the Department of Defense while caring for the recovering servicemember.

(d) TREATMENT OF ACTIONS.—An employer shall be considered to have engaged in an action prohibited by subsection (b) with respect to a person described in that subsection if the absence from employment of the person as described in that subsection is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of the absence of employment of the person.

(e) DEFINITIONS.—In this section:

(1) BENEFIT OF EMPLOYMENT.—The term ''benefit of employment'' has the meaning given such term in section 4303 of title 38, United States Code.

(2) CARING FOR.—The term ''caring for'', used with respect to a recovering servicemember, means providing personal, medical, or convalescent care to the recovering servicemember, under circumstances that substantially interfere with an employee's ability to work.

(3) EMPLOYER.—The term ''employer'' has the meaning given such term in section 4303 of title 38, United States Code, except that the term does not include any person who is not considered to be an employer under title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.) because the person does not meet the requirements of section 101(4)(A)(i) of such Act (29 U.S.C. 2611(4)(A)(i)).

(4) FAMILY MEMBER.—The term ''family member'', with respect to a recovering servicemember, has the meaning given that term in section 411h(b) of title 37, United States Code.

(5) RECOVERING SERVICEMEMBER.—The term ''recovering servicemember'' means a member of the Armed Forces, including a member of the National Guard or a Reserve, who is undergoing medical treatment, recuperation, or therapy, or is otherwise in medical hold or medical holdover status, for an injury, illness, or disease incurred or aggravated while on active duty in the Armed Forces.

SEC. 612. SENSE OF SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

SEC. 613. DEMONSTRATION PROJECTS RELATING TO DIABETES PREVENTION.

There is authorized to be appropriated $15,000,000 during the period of fiscal years 2008 through 2012 to fund demonstration projects in up to 10 States over 3 years for voluntary incentive programs to promote children's receipt of relevant screenings and improvements in healthy eating and physical activity with the aim of reducing the incidence of type 2 diabetes. Such programs may involve reductions in cost-sharing or premiums when children receive regular screening and reach certain benchmarks in healthy eating and physical activity. Under such programs, a State may also provide financial bonuses for partnerships with entities, such as schools, which increase their education and efforts with respect to reducing the incidence of type 2 diabetes and may also devise incentives for providers serving children covered under this title and title XIX to perform relevant screening and counseling regarding healthy eating and physical activity. Upon completion of these demonstrations, the Secretary shall provide a report to Congress on the results of the State demonstration projects and the degree to which they helped improve health outcomes related to type 2 diabetes in children in those States.''.

SEC. 614. OUTREACH REGARDING HEALTH INSURANCE OPTIONS AVAILABLE TO CHILDREN.

(a) DEFINITIONS.—In this section—

(1) the terms ''Administration'' and ''Administrator'' means the Small Business Administration and the Administrator thereof, respectively;

(2) the term ''certified development company'' means a development company participating in the program under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.);

(3) the term ''Medicaid program'' means the program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(4) the term ''Service Corps of Retired Executives'' means the Service Corps of Retired Executives authorized by section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1));

(5) the term ''small business concern'' has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(6) the term ''small business development center'' means a small business development center described in section 21 of the Small Business Act (15 U.S.C. 648);

(7) the term ''State'' has the meaning given that term for purposes of title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(8) the term ''State Children's Health Insurance Program'' means the State Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.);

(9) the term ''task force'' means the task force established under subsection (b)(1); and

(10) the term ''women's business center'' means a women's business center described in section 29 of the Small Business Act (15 U.S.C. 656).

(b) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT.—There is established a task force to conduct a nationwide campaign of education and outreach for small business concerns regarding the availability of coverage for children through private insurance options, the Medicaid program, and the State Children's Health Insurance Program.

(2) MEMBERSHIP.—The task force shall consist of the Administrator, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury.

(3) RESPONSIBILITIES.—The campaign conducted under this subsection shall include—

(A) efforts to educate the owners of small business concerns about the value of health coverage for children;

(B) information regarding options available to the owners and employees of small business concerns to make insurance more affordable, including Federal and State tax deductions and credits for health care-related expenses and health insurance expenses and Federal tax exclusion for health insurance options available under employer-sponsored cafeteria plans under section 125 of the Internal Revenue Code of 1986;

(C) efforts to educate the owners of small business concerns about assistance available through public programs; and

(D) efforts to educate the owners and employees of small business concerns regarding the availability of the hotline operated as part of the Insure Kids Now program of the Department of Health and Human Services.

(4) IMPLEMENTATION.—In carrying out this subsection, the task force may—

(A) use any business partner of the Administration, including—

(i) a small business development center;

(ii) a certified development company;

(iii) a women's business center; and

(iv) the Service Corps of Retired Executives;

(B) enter into—

(i) a memorandum of understanding with a chamber of commerce; and

(ii) a partnership with any appropriate small business concern or health advocacy group; and

(C) designate outreach programs at regional offices of the Department of Health and Human Services to work with district offices of the Administration.

(5) WEBSITE.—The Administrator shall ensure that links to information on the eligibility and enrollment requirements for the Medicaid program and State Children's Health Insurance Program of each State are prominently displayed on the website of the Administration.

(6) REPORT.—

(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1).

(B) CONTENTS.—Each report submitted under subparagraph (A) shall include a status update on all efforts made to educate owners and employees of small business concerns on options for providing health insurance for children through public and private alternatives.

TITLE VII—REVENUE PROVISIONS

SEC. 701. INCREASE IN EXCISE TAX RATE ON TOBACCO PRODUCTS.

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''$1.828 cents per thousand ($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.00 per thousand'',

(2) by striking ''20.719 percent (18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''53.13 percent'', and

(3) by striking ''$48.75 per thousand ($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''$3.00 per cigar''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''$19.50 per thousand ($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''$50.00 per thousand'', and

(2) by striking ''$40.95 per thousand ($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''$104.9999 cents per thousand''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''1.22 cents (1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''3.13 cents''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''2.44 cents (2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''6.26 cents''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''58.5 cents (51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''$1.50'', and

(2) by striking ''19.5 cents (17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''50 cents''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''$1.0969 cents (95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''$2.8126 cents''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''$1.0969 cents (95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''$8.8889 cents''.

(h) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—On tobacco products and cigarette papers and tubes manufactured in or imported into the United States which are removed before January 1, 2008, and held on such date for sale by any person, there is hereby imposed a tax in an amount equal to the excess of—

(A) the tax which would be imposed under section 5701 of the Internal Revenue Code of 1986 on the article if the article had been removed on such date, over

(B) the prior tax (if any) imposed under section 5701 of such Code on such article.

(2) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $500. Such credit shall not exceed the amount of taxes imposed by paragraph (1) on January 1, 2008, for which such person is liable.

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding tobacco products, cigarette papers, or cigarette tubes on January 1, 2008, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before April 1, 2008.

(4) ARTICLES IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (commonly known as the Foreign Trade Zone Act, 48 Stat. 998, 19 U.S.C. 81a et seq.) or any other provision of law, any article which is located in a foreign trade zone on January 1, 2008, shall be subject to the tax imposed by paragraph (1) if—

(A) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(B) such article is held on such date under the supervision of an officer of the United States Customs and Border Protection of the Department of Homeland Security pursuant to the 2d proviso of such section 3(a).

(5) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Any term used in this subsection which is also used in section 5702 of the Internal Revenue Code of 1986 shall have the same meaning as such term has in such section.

(B) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 5061(e)(3) of such Code shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701. The Secretary may treat any person who bore the ultimate burden of the tax imposed by paragraph (1) as the person to whom a credit or refund under such provisions may be allowed or made.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after December 31, 2007.

SEC. 702. ADMINISTRATIVE IMPROVEMENTS.

(a) PERMIT, REPORT, AND RECORD REQUIREMENTS FOR MANUFACTURERS AND IMPORTERS OF PROCESSED TOBACCO.—

(1) PERMITS.—

(A) APPLICATION.—Section 5712 of the Internal Revenue Code of 1986 is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(B) ISSUANCE.—Section 5713(a) of such Code is amended by inserting ''or processed tobacco'' after ''tobacco products''.

(2) INVENTORIES AND REPORTS.—

(A) INVENTORIES.—Section 5721 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(B) REPORTS.—Section 5722 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(3) RECORDS.—Section 5741 of such Code is amended by inserting '', processed tobacco,'' after ''tobacco products''.

(4) MANUFACTURER OF PROCESSED TOBACCO.—Section 5702 of such Code is amended by adding at the end the following new subsection:

''(p) MANUFACTURER OF PROCESSED TOBACCO.—

''(1) IN GENERAL.—The term 'manufacturer of processed tobacco' means any person who processes any tobacco other than tobacco products.

''(2) PROCESSED TOBACCO.—The processing of tobacco shall not include the farming or growing of tobacco or the handling of tobacco solely for sale, shipment, or delivery to a manufacturer of tobacco products or processed tobacco.''.

(5) CONFORMING AMENDMENT.—Section 5702(k) of such Code is amended by inserting '', or any processed tobacco,'' after ''nontaxpaid tobacco products or cigarette papers or tubes''.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2008.

(b) BASIS FOR DENIAL, SUSPENSION, OR REVOCATION OF PERMITS.—

(1) DENIAL.—Paragraph (3) of section 5712 of such Code is amended to read as follows:

''(3) such person (including, in the case of a corporation, any officer, director, or principal stockholder and, in the case of a partnership, a partner)—

''(A) is, by reason of his business experience, financial standing, or trade connections or by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter,

''(B) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, cigarette paper, or cigarette tubes, or

''(C) has failed to disclose any material information required or made any material false statement in the application therefor.''.

(2) SUSPENSION OR REVOCATION.—Subsection (b) of section 5713 of such Code is amended to read as follows:

''(b) SUSPENSION OR REVOCATION.—

''(1) SHOW CAUSE HEARING.—If the Secretary has reason to believe that any person holding a permit—

''(A) has not in good faith complied with this chapter, or with any other provision of this title involving intent to defraud,

''(B) has violated the conditions of such permit,

''(C) has failed to disclose any material information required or made any material false statement in the application for such permit,

''(D) has failed to maintain his premises in such manner as to protect the revenue,

''(E) is, by reason of previous or current legal proceedings involving a felony violation of any other provision of Federal criminal law relating to tobacco products, cigarette paper, or cigarette tubes, not likely to maintain operations in compliance with this chapter, or

''(F) has been convicted of a felony violation of any provision of Federal or State criminal law relating to tobacco products, cigarette paper, or cigarette tubes,

the Secretary shall issue an order, stating the facts charged, citing such person to show cause why his permit should not be suspended or revoked.

''(2) ACTION FOLLOWING HEARING.—If, after hearing, the Secretary finds that such person has not shown cause why his permit should not be suspended or revoked, such permit shall be suspended for such period as the Secretary deems proper or shall be revoked.''.

(c) APPLICATION OF INTERNAL REVENUE CODE STATUTE OF LIMITATIONS FOR ALCOHOL AND TOBACCO EXCISE TAXES.—Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is amended by striking ''and section 520 (relating to refunds)'' and inserting ''section 520 (relating to refunds), and section 6501 of the Internal Revenue Code of 1986 (but only with respect to taxes imposed under chapters 51 and 52 of such Code)''.

(d) EXPANSION OF DEFINITION OF ROLL-YOUR-OWN TOBACCO.—

(1) IN GENERAL.—Section 5702(o) of the Internal Revenue Code of 1986 is amended by inserting ''or cigars, or for use as wrappers thereof'' before the period at the end.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to articles removed (as defined in section 5702(j) of the Internal Revenue Code of 1986) after December 31, 2007.

(e) TIME OF TAX FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—Section 5703(b)(2) of such Code is amended by adding at the end the following new subparagraph:

''(F) SPECIAL RULE FOR UNLAWFULLY MANUFACTURED TOBACCO PRODUCTS.—In the case of any tobacco products, cigarette paper, or cigarette tubes produced in the United States at any place other than the premises of a manufacturer of tobacco products, cigarette paper, or cigarette tubes that has filed the bond and obtained the permit required under this chapter, tax shall be due and payable immediately upon manufacture.''.

SEC. 703. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking ''114.50 percent'' and inserting ''113.25 percent''.

TITLE VIII—EFFECTIVE DATE

SEC. 801. EFFECTIVE DATE.

(a) IN GENERAL.—Unless otherwise provided in this Act, subject to subsection (b), the amendments made by this Act shall take effect on October 1, 2007, and shall apply to child health assistance and medical assistance provided on or after that date without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(b) EXCEPTION FOR STATE LEGISLATION.—In the case of a State plan under title XIX or XXI of the Social Security Act, which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by an amendment made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such Act 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 preceding sentence, in the case of a State that has a 2-year legislative session, each year of the session shall be considered to be a separate regular session of the State legislature.

Amend the title so as to read: ''An Act to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes.''.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 278

Mr. REID. Mr. President, I ask unanimous consent that on Tuesday, September 4, at 2:30 p.m., the Senate proceed to executive session to consider Executive Calendar No. 278, Jim Nussle, to be Director of the Office of Management and Budget; that there be a time limit of 3 hours for debate on the nomination, 2 hours equally divided between the chairman and ranking member, 1 hour under the control of Senator SANDERS; that at the conclusion or yielding back of the time, the Senate vote on confirmation of the nomination, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

EXECUTIVE SESSION

EXECUTIVE CALENDER AND NOMINATIONS DISCHARGED

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 245, 246, 247, 248, 249, 256, 273, 274, 276, 277, 279 through 290, and all nominations placed on the Secretary's desk; further that the HELP Committee be discharged from the following nominations: PN659, David W. James to be an Assistant Secretary of Labor; and PN485, Bradford Campbell to be an Assistant Secretary of Labor; that the Foreign Relations Committee be discharged from further consideration of PN641, Mark Green to be Ambassador to Tanzania; that the nominations be confirmed, the motions to reconsider be laid on the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF THE INTERIOR

Brent T. Wahlquist, of Pennsylvania, to be Director of the Office of Surface Mining Reclamation and Enforcement.

James L. Caswell, of Idaho, to be Director of the Bureau of Land Management.

DEPARTMENT OF ENERGY

Lisa E. Epifani, of Texas, to be an Assistant Secretary of Energy (Congressional and Intergovernment Affairs).

Kevin M. Kolevar, of Michigan, to be an Assistant Secretary of Energy (Electricity Delivery and Energy Reliability).

Clarence H. Albright, of South Carolina, to be Under Secretary of Energy.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Robert Boldrey, of Michigan, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring May 26, 2013.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Dennis R. Schrader, of Maryland, to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security.

[NEW REPORTS]

DEPARTMENT OF COMMERCE

William G. Sutton, Jr., of Virginia, to be an Assistant Secretary of Commerce.

DEPARTMENT OF TRANSPORTATION

Thomas J. Barrett, of Alaska, to be Deputy Secretary of Transportation.

Paul R. Brubaker, of Virginia, to be Administrator of the Research and Innovative Technology Administration, Department of Transportation.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. David A. Deptula, 0000

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Claude R. Kehler, 0000

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Kenneth W. Hunzeker, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James D. Thurman, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James J. Lovelace, 0000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Carter F. Ham, 0000

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Lawrence A. Haskins, 0000

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Richard K. Gallagher, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Robert T. Moeller, 0000

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James A. Winnefeld, Jr., 0000

The following named officer for appointment as the Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 152 and 601:

To be admiral

Adm. Michael G. Mullen, 0000

IN THE MARINE CORPS

The following named officer for appointment as the Vice Chairman of the Joint Chiefs of Staff and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 154:

To be general

Gen. James E. Cartwright, 0000

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN793 AIR FORCE nomination of Damion T. Gottlieb, which was received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN794 AIR FORCE nomination of Francis E. Lowe, which was received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN795 AIR FORCE nominations (25) beginning LISTA M. BENSON, and ending KAREN L. WEIS, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

P796 AIR FORCE nominations (17) beginning KEVIN C. BLAKLEY, and ending ROBERT A. TETLA, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN797 AIR FORCE nominations (556) beginning ROBERT K. ABERNATHY, and ending ANTHONY J. ZUCCO, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN800 AIR FORCE nominations (36) beginning MARY ANN BEHAN, and ending PAUL A. WILLINGHAM, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

IN THE ARMY

PN801 ARMY nominations (53) beginning DAWUD A. AGBERE, and ending EDWARD

J. YURUS, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN802 ARMY nominations (2) beginning BLAKE C. ORTNER, and ending ANDREW S. ZELLER, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN803 ARMY nominations (2) beginning JULIE A. BENTZ, and ending THOMAS L. TURPIN JR., which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN804 ARMY nominations (5) beginning LARRY L. GUYTON, and ending LINDA M. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

IN THE COAST GUARD

PN781 COAST GUARD nomination of Kristine B. Neeley, which was received by the Senate and appeared in the Congressional Record of July 25, 2007.

IN THE NAVY

PN805 NAVY nominations (14) beginning JOSE A. ACOSTA, and ending LAWRENCE A. RAMIREZ, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN806 NAVY nominations (20) beginning DOUGLAS P. BARBER JR., and ending THOMAS J. WELSH, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN807 NAVY nominations (10) beginning SUSAN D. CHACON, and ending SEUNG C. YANG, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

PN808 NAVY nominations (56) beginning ENEIN Y. H. ABOUL, and ending KIMBERLY A. ZUZELSKI, which nominations were received by the Senate and appeared in the Congressional Record of July 25, 2007.

DEPARTMENT OF LABOR

David W. James, of Missouri, to be an Assistant Secretary of Labor.

Bradford P. Campbell, of Virginia, to be an Assistant Secretary of Labor.

DEPARTMENT OF STATE

Mark Green, of Wisconsin, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDER FOR STATUS OF NOMINATIONS TO REMAIN IN STATUS QUO

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that the provisions of rule XXXI, section 5 notwithstanding, all nominations remain in status quo except the following: Reed Verne Hillman, of Massachusetts, to be United States Marshal for the District of Massachusetts for the term of 4 years.

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

PROVIDING FOR CONDITIONAL ADJOURNMENT OR RECESS OF THE HOUSE AND SENATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 43, the adjournment resolution.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 43) providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

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

Mr. REID. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

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

The concurrent resolution (S. Con. Res. 43) was agreed to, as follows:

S. CON. RES. 43

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Friday, August 3, 2007, through Friday, August 31, 2007, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12 noon on Tuesday, September 4, 2007, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any legislative day from Friday, August 3, 2007, through Wednesday, August 8, 2007, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 4, 2007, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

MEASURE PLACED ON THE CALENDAR—S. 1974

Mr. REID. Mr. President, it is my understanding that S. 1974 is at the desk and due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title for a second time.

The legislative clerk read as follows:

A bill (S. 1974) to make technical corrections related to the Pension Protection Act of 2006.

Mr. REID. Mr. President, I object to any further proceedings.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the calendar.

IMPROVING THE USE OF LAND TO THE STATE OF IDAHO FOR USE AS AN AGRICULTURAL COLLEGE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 3006.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3006) to improve the use of a grant of a parcel of land to the State of Idaho for use as an agricultural college, 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 the third time, passed, the motion to reconsider laid on the table, and that any statements thereon be printed in the RECORD.

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

The bill (H.R. 3006) was read the third time, and passed.

THE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that it be in order for the Senate to proceed, en bloc, to the consideration of the following calendar items: Calendar Nos. 299, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, and H.R. 2309, which is at the desk.

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

There being no objection, the Senate proceeded to consider the bills en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read the third time and passed en bloc; that the motions to reconsider be laid on the table en bloc; that the consideration of these items appear separately in the Record; and that any statements relating thereto be printed in the RECORD.

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

PRIVATE FIRST CLASS SHANE R. AUSTIN POST OFFICE

The bill (S. 1772) to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post office,'' was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1772

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

SECTION 1. PRIVATE FIRST CLASS SHANE R. AUSTIN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, shall be known and designated as the ''Private First Class Shane R. Austin Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Private First Class Shane R. Austin Post Office''.

OFFICER JEREMY TODD CHARRON POST OFFICE

The bill (S. 1896) to designate the facility of the United States Postal Service located at 11 Central Street in

Hillsborough, New Hampshire, as the ''Officer Jeremy Todd Charron Post Office,'' was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1896

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

SECTION 1. OFFICER JEREMY TODD CHARRON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, shall be known and designated as the ''Officer Jeremy Todd Charron Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Officer Jeremy Todd Charron Post Office''.

CLAUDE RAMSEY POST OFFICE

The bill (H.R. 1260) to designate the facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office,'' was considered, ordered to a third reading, read the third time, and passed.

S/SGT LEWIS G. WATKINS POST OFFICE BUILDING

The bill (H.R. 1335) to designate the facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, as the ''S/Sgt Lewis G. Watkins Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

STAFF SERGEANT MARVIN 'REX' YOUNG POST OFFICE BUILDING

The bill (H.R. 1425) to designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the ''Staff Sergeant Marvin 'Rex' Young Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

RACHEL CARSON POST OFFICE BUILDING

The bill (H.R. 1434) to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

HARRIETT F. WOODS POST OFFICE BUILDING

The bill (H.R. 1617) to designate the facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, as the Harriett F. Woods Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

LEONARD W. HERMAN POST OFFICE

The bill (H.R. 1722) to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office,'' was considered, ordered to a third reading, read the third time, and passed.

WILLYE B. WHITE POST OFFICE BUILDING

The bill (H.R. 2025) to designate the facility of the United States Postal Service 10C 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

GEORGE B. LEWIS POST OFFICE BUILDING

The bill (H.R. 2077) to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

STAFF SERGEANT OMER 'O.T.' HAWKINS POST OFFICE

The bill (H.R. 2078) to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the ''Staff Sergeant Omer 'O.T.' Hawkins Post Office,'' was considered, ordered to a third reading, read the third time, and passed.

CLEM ROGERS McSPADDEN POST OFFICE BUILDING

The bill (H.R. 2127) to designate the facility of the United States Postal Service located at 408 West Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

MAJOR SCOTT NISELY POST OFFICE

The bill (H.R. 2563) to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office,'' was considered, ordered to a third reading, read the third time, and passed.

DR. KARL E. CARSON POST OFFICE BUILDING

The bill (H.R. 2570) to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

BUCK OWENS POST OFFICE

The bill (H.R. 1384) to designate the facility of the United States Post Service located at 118 Minner Street in Bakersfield, California, as the ''Buck Owens Post Office,'' was considered, ordered to a third reading, read the third time, and passed.

DOLPH BRISCOE, JR. POST OFFICE BUILDING

The bill (H.R. 2688) to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

FRANK G. LUMPKIN, JR. POST OFFICE BUILDING

The bill (H.R. 2309) to designate the facility of the United States Postal Service located at 3916 Milgen Road in Columbus, Georgia, as the ''Frank G. Lumpkin, Jr. Post Office Building,'' was considered, ordered to a third reading, read the third time, and passed.

NATIVE AMERICAN $1 COIN ACT

Mr. REID. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 2358, 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 legislative clerk read as follows:

A bill (H.R. 2358) to require the Secretary of the Treasury to mint and issue coins in commemoration of Native Americans and the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States, and for other purposes.

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

Mr. REID. Mr. President, I understand there is an amendment at the desk. I ask unanimous consent that the amendment be considered and agreed to; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 2653) 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 ''Native American $1 Coin Act''.

SEC. 2. NATIVE AMERICAN $1 COIN PROGRAM.

Section 5112 of title 31, United States Code, is amended by adding at the end the following:

''(r) REDESIGN AND ISSUANCE OF CIRCULATING $1 COINS HONORING NATIVE AMERICANS AND THE IMPORTANT CONTRIBUTIONS MADE BY INDIAN TRIBES AND INDIVIDUAL NATIVE AMERICANS IN UNITED STATES HISTORY.—

''(1) REDESIGN BEGINNING IN 2008.—

''(A) IN GENERAL.—Effective beginning January 1, 2008, notwithstanding subsection (d), in addition to the coins to be issued pursuant to subsection (n), and in accordance with this subsection, the Secretary shall mint and issue $1 coins that—

''(i) have as the designs on the obverse the so-called 'Sacagawea design'; and

''(ii) have a design on the reverse selected in accordance with paragraph (2)(A), subject to paragraph (3)(A).

''(B) DELAYED DATE.—If the date of the enactment of the Native American $1 Coin Act is after August 25, 2007, subparagraph (A) shall be applied by substituting '2009' for '2008'.

''(2) DESIGN REQUIREMENTS.—The $1 coins issued in accordance with paragraph (1) shall meet the following design requirements:

''(A) COIN REVERSE.—The design on the reverse shall bear—

''(i) images celebrating the important contributions made by Indian tribes and individual Native Americans to the development of the United States and the history of the United States;

''(ii) the inscription '$1' ; and

''(iii) the inscription 'United States of America'.

''(B) COIN OBVERSE.—The design on the obverse shall—

''(i) be chosen by the Secretary, after consultation with the Commission of Fine Arts and review by the Citizens Coinage Advisory Committee; and

''(ii) contain the so-called 'Sacagawea design' and the inscription 'Liberty'.

''(C) EDGE-INCUSED INSCRIPTIONS.—

''(i) IN GENERAL.—The inscription of the year of minting and issuance of the coin and the inscriptions 'E Pluribus Unum' and 'In God We Trust' shall be edge-incused into the coin.

''(ii) PRESERVATION OF DISTINCTIVE EDGE.—The edge-incusing of the inscriptions under clause (i) on coins issued under this subsection shall be done in a manner that preserves the distinctive edge of the coin so that the denomination of the coin is readily discernible, including by individuals who are blind or visually impaired.

''(D) REVERSE DESIGN SELECTION.—The designs selected for the reverse of the coins described under this subsection—

''(i) shall be chosen by the Secretary after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, the Commission of Fine Arts, and the National Congress of American Indians;

''(ii) shall be reviewed by the Citizens Coinage Advisory Committee;

''(iii) may depict individuals and events such as—

''(I) the creation of Cherokee written language;

''(II) the Iroquois Confederacy;

''(III) Wampanoag Chief Massasoit;

''(IV) the 'Pueblo Revolt';

''(V) Olympian Jim Thorpe;

''(VI) Ely S. Parker, a general on the staff of General Ulysses S. Grant and later head of the Bureau of Indian Affairs; and

''(VII) code talkers who served the United States Armed Forces during World War I and World War II; and

''(iv) in the case of a design depicting the contribution of an individual Native American to the development of the United States and the history of the United States, shall not depict the individual in a size such that the coin could be considered to be a '2-headed' coin.

''(3) ISSUANCE OF COINS COMMEMORATING 1 NATIVE AMERICAN EVENT DURING EACH YEAR.—

''(A) IN GENERAL.—Each design for the reverse of the $1 coins issued during each year shall be emblematic of 1 important Native American or Native American contribution each year.

''(B) ISSUANCE PERIOD.—Each $1 coin minted with a design on the reverse in accordance with this subsection for any year shall be issued during the 1-year period beginning on January 1 of that year and shall be available throughout the entire 1-year period.

''(C) ORDER OF ISSUANCE OF DESIGNS.—Each coin issued under this subsection commemorating Native Americans and their contributions—

''(i) shall be issued, to the maximum extent practicable, in the chronological order in which the Native Americans lived or the events occurred, until the termination of the coin program described in subsection (n); and

''(ii) thereafter shall be issued in any order determined to be appropriate by the Secretary, after consultation with the Committee on Indian Affairs of the Senate, the Congressional Native American Caucus of the House of Representatives, and the National Congress of American Indians.

''(4) ISSUANCE OF NUMISMATIC COINS.—The Secretary may mint and issue such number of $1 coins of each design selected under this subsection in uncirculated and proof qualities as the Secretary determines to be appropriate.

''(5) QUANTITY.—The number of $1 coins minted and issued in a year with the Sacagawea-design on the obverse shall be not less than 20 percent of the total number of $1 coins minted and issued in such year.''.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 5112(n)(1) of title 31, United States Code, is amended—

(1) by striking the paragraph designation and heading and all that follows through ''Notwithstanding subsection (d)'' and inserting the following:

''(1) REDESIGN BEGINNING IN 2007.—Notwithstanding subsection (d)'';

(2) by striking subparagraph (B); and

(3) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and indenting the subparagraphs appropriately.

SEC. 4. REMOVAL OF BARRIERS TO CIRCULATION OF $1 COIN.

(a) IN GENERAL.—In order to remove barriers to circulation, the Secretary of the Treasury shall carry out an aggressive, cost-effective, continuing campaign to encourage commercial enterprises to accept and dispense $1 coins that have as designs on the obverse the so-called ''Sacagawea design''.

(b) REPORT.—The Secretary of the Treasury shall submit to Congress an annual report on the success of the efforts described in subsection (a).

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

The bill (H.R. 2358) was read the third time and passed.

SMALL BUSINESS DISASTER RESPONSE AND LOAN IMPROVEMENT ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 139, S. 163, the Small Business Disaster Response and Loan Improvement Act of 2007; that the committee-reported amendment be withdrawn, and that the substitute amendment that is at the desk be considered; that the Bond and Coburn amendments, which are at the desk, be considered and agreed to, en bloc; that the substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time and passed; that the motions to reconsider be laid upon the table, en bloc; and that any statements relating to the bill be printed in the RECORD, with no intervening action or debate.

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

The committee-reported amendment was withdrawn.

The amendment (No. 2650) was agreed to.

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

The amendments (Nos. 2651 and 2652) were agreed to, as follows:

AMENDMENT NO. 2651 TO AMENDMENT NO. 2650

(Purpose: To strike the title relating to energy emergencies)

On page 50, strike line 15 and all that follows through page 60, line 3.

AMENDMENT NO. 2652 TO AMENDMENT NO. 2650

(Purpose: To require appropriate reporting regarding the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Small Business Administration, to provide appropriate assistance in the event of a catastrophic national disaster, and for other purposes)

On page 24, line 2, strike ''shall'' and insert ''may''.

On page 24, strike line 9, and all that follows through page 28, line 5, and insert the following:

''(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

''(i) detailing staffing levels on that date;

''(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

''(iii) containing such additional information, as determined appropriate by the Administrator.''.

TITLE II—DISASTER LENDING

SEC. 201. CATASTROPHIC NATIONAL DISASTER DECLARATION.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (10), as added by this Act, the following:

''(11) CATASTROPHIC NATIONAL DISASTERS.—

''(A) IN GENERAL.—The President may make a catastrophic national disaster declaration in accordance with this paragraph.

''(B) PROMULGATION OF RULES.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator, with the concurrence of the Secretary of Homeland Security

and the Administrator of the Federal Emergency Management Agency, shall promulgate regulations establishing a threshold for a catastrophic national disaster declaration.

''(ii) CONSIDERATIONS.—In promulgating the regulations required under clause (i), the Administrator shall establish a threshold that—

''(I) is similar in size and scope to the events relating to the terrorist attacks of September 11, 2001, and Hurricane Katrina of 2005;

''(II) requires that the President declares a major disaster before making a catastrophic national disaster declaration under this paragraph;

''(III) requires consideration of—

''(aa) the dollar amount per capita of damage to the State, its political subdivisions, or a region;

''(bb) the number of small business concerns damaged, physically or economically, as a direct result of the event;

''(cc) the number of individuals and households displaced from their predisaster residences by the event;

''(dd) the severity of the impact on employment rates in the State, its political subdivisions, or a region;

''(ee) the anticipated length and difficulty of the recovery process;

''(ff) whether the events leading to the relevant major disaster declaration are of an unusually large and calamitous nature that is orders of magnitude larger than for an average major disaster; and

''(gg) any other factor determined relevant by the Administrator.

''(C) AUTHORIZATION.—If the President makes a catastrophic national disaster declaration under this paragraph, the Administrator may make such loans under this paragraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to small business concerns located anywhere in the United States that are economically adversely impacted as a result of that catastrophic national disaster.

''(D) LOAN TERMS.—A loan under this paragraph shall be made on the same terms as a loan under paragraph (2).''.

On page 28, strike lines 15 through 18 and insert the following:

''(A) the term 'disaster area' means any area for which the President declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) that subsequently results in the President making a catastrophic national disaster declaration under subsection (b)(11);

On page 34, lines 8 and 9, strike ''a disaster declaration is made'' and inserting ''the President makes a catastrophic disaster declaration under paragraph (11) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act,''

On page 34, lines 20 and 21, strike ''under section 7(b) of the Small Business Act (15 U.S.C. 636(b))'' and insert ''under paragraph (11) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act''.

Mr. KERRY. Mr. President, this month marks the 2-year anniversary of Hurricane Katrina, and still thousands of small business owners in New Orleans and across the gulf coast are still struggling to keep their doors open, keep their employees working, and get the economy back on its feet.

Since the days immediately following the storm, I have worked with Senators SNOWE, LANDRIEU, and VITTER to produce a comprehensive package to reform the SBA's Disaster Assistance program. Nearly 2 years of bipartisan negotiations have produced a piece of legislation that has broad bipartisan support as well as the support of the administration. Today that legislation will pass the Senate, and is one step closer to authorizing the tools needed by the SBA to respond to large scale disasters.

This bill includes directives for the SBA to create a private disaster loan program, to allow for lenders to issue guaranteed disaster loans in the aftermath of a catastrophic disaster. To ensure that these loans are borrower-friendly, we provide authorization for appropriations so that the agency can subsidize the interest rates. In addition, the administrator is authorized to enter into agreements with private contractors in order to expedite loan application processing for direct disaster loans.

The bill also includes language directing SBA to create an expedited disaster assistance loan program to provide businesses with short-term loans so that they may keep their doors open until they receive alternative forms of assistance. The days immediately following a disaster are crucial for business owners—statistics show that once they close their doors, they likely will not open them again. These short-term will be available following a disaster of catastrophic proportions so that processing delays such as the ones experienced after the 2005 gulf coast storms will not result in widespread business failure.

A presidential declaration of catastrophic national disaster will allow the Administrator to offer economic injury disaster loans to adversely affected business owners beyond the geographic reach of the disaster area. In the event of a large-scale disaster, businesses located far from the physical reach of the disaster can be affected by the magnitude of a localized destruction. We saw this when the terrorist attacks of September 11, 2001 affected businesses from coast to coast, and we saw it again with the 2005 gulf coast hurricanes. Should another catastrophic disaster strike, the President should have the authority to provide businesses across the country with access to the same low-interest economic injury loans available to businesses within the declared disaster area.

Nonprofit entities working to provide services to victims should be rewarded and given access to the capital they require to continue their services. To this end, the administrator is authorized to make disaster loans to nonprofit entities, including religious organizations.

Construction and rebuilding contracts being awarded are likely to be larger than the current $2 million threshold currently applied to the SBA Surety Bond Program, which helps small construction firms gain access to contracts. This bill increases the guarantee against loss for small business contracts up to $5 million and allows the administrator to increase that level to $10 million, if required.

The bill also provides for small business development centers to offer business counseling in disaster areas and to travel beyond traditional geographic boundaries to provide services during declared disasters. To encourage small business development centers located in disaster areas to keep their doors open, the maximum grant amount of $100,000 is waived.

So that Congress may remain better aware of the status of the administration's Disaster Loan Program, this bill directs the administration to report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regularly on the fiscal status of the disaster loan program as well as the need for supplemental funding. The administration is also directed to report on the number of Federal contracts awarded to small businesses, minority-owned small businesses, women-owned businesses, and local businesses during a disaster declaration.

Though it took many, many months to pass this much-needed legislation, I am confident that our extensive negotiations have produced a piece of legislation that, when enacted, will provide the tools that the administrator requires to swiftly and effectively respond to future disasters, both large and small. I thank Ranking Member SNOWE as well as Senators LANDRIEU, and VITTER for their extraordinary efforts over the past 2 years. I also thank Senators BOND and COBURN for their ability to see the need for this important legislation and to work through disagreements in order to get this bill passed. I look forward to working with the House of Representatives to address any differences that remain between the House and Senate versions of the bill so that we can put in place a more comprehensive disaster response program at the SBA as quickly as possible.

Ms. LANDRIEU. Mr. President, as we all know, there was a tremendous amount of criticism of the Federal Government's response to Hurricanes Katrina and Rita of 2005. Things are better now, and the region is slowly recovering. But as I stand here tonight, we are exactly 63 days into the 2007 Atlantic hurricane season. Two years ago, the U.S. Small Business Administration's, SBA, response to Hurricanes Katrina and Rita was too slow and lacking in urgency, threatening the very survival of impacted businesses and homeowners. This failure occurred because SBA lacked the necessary tools and resources to respond swiftly and effectively to a large-scale disaster. Thanks in part to the efforts of Administrator Steven Preston, much has been done to improve the SBA disaster assistance program in the past

year. However, many in Congress remain concerned that despite these efforts, the agency lacks the additional legislative authority and resources required to respond to a large-scale disaster. This is because we must be sure that if we have another disaster, the Federal Government's response will be better this time around. Disaster response agencies have to be better organized, more efficient, and more responsive in order to avoid the problems, the delays, mismanagement, and the seeming incompetence that occurred in 2005.

I am proud that legislation, of which I am an original cosponsor, is passing the Senate tonight. This is because I strongly believe that we cannot afford to adjourn for August, the heart of hurricane season, without moving this important legislation forward—legislation which would immediately provide SBA with the resources it needs to effectively respond to natural or manmade disasters. In particular, this legislation improves the disaster response of one agency that had a great deal of problems last year, the SBA. This bill, S. 163, the Small Business Disaster Response and Loan Improvements Act, makes major improvements to the SBA's disaster response and provides them with essential tools to ensure that they are more efficient and better prepared for future disasters—big and small.

I should also note that this bill is a result of intensive bipartisan work over 2 years and was introduced shortly before the 109th Congress adjourned as S. 4097 by Senator SNOWE. Unfortunately, there was no action on that bill, so it was reintroduced in January 2007, at the start of the 110th Congress, by Senator KERRY as S. 163. On May 7, 2007, the Committee on Small Business and Entrepreneurship unanimously reported out S. 163 and sent it to the full Senate for consideration. This bipartisan legislation features comprehensive SBA reforms as outlined in the attached summary. S. 163 also has the full support of the SBA, who assisted the committee in drafting many of the provisions as well as the support of our Louisiana business community. As mentioned above, although this bill was reported out of committee 86 days ago, S. 163 was blocked from passage, most recently on July 17 due to a Republican objection. The committee worked closely with the Republican Senator to address his specific concerns, but unfortunately after this hold was lifted last night, it appeared as if there would be an additional hold from the Republican side. Given the urgent nature of this legislation, in addition to the fact that the House of Representatives passed companion legislation on April 18, 2007, my colleagues and I were pleased that we could work out these remaining issues and pass this bill tonight because stalling this legislation would send the wrong signal to America's small businesses.

As mentioned previously, this bill is reflective of my priorities as well as those from Senators KERRY and SNOWE, respectively chair and ranking member of the Senate Small Business Committee. For my part, I have heard loudly and clearly from our impacted businesses that SBA reforms should be implemented as soon as possible. In fact, as of August 29, 2007, these reforms will be 2 years overdue. That is why I have worked tirelessly alongside my colleagues on the Small Business Committee to secure passage of this legislation. Like my colleagues, I have led when appropriate, pushed back when pushed, and negotiated when needed so that S. 163 could pass the Senate before we adjourn for August recess.

This legislation offers new tools to enhance SBA's disaster assistance programs. In every disaster, the SBA disaster loan program is a lifeline for businesses and homeowners who want to rebuild their lives after a catastrophe. When Katrina hit, our businesses and homeowners had to wait months for loan approvals. I do not know how many businesses we lost because help did not come in time. Because of the scale of this disaster, what these businesses needed was immediate, short-term assistance to hold them over until SBA was ready to process the tens of thousands of loan applications it received.

That is why this legislation provides the SBA Administrator with the ability to set up an expedited disaster assistance business loan program to make short-term, low-interest loans to keep them afloat. These loans will allow businesses to make payroll, begin making repairs, and address other immediate needs while they are awaiting insurance payouts or regular SBA disaster loans. However, I realize that every disaster is different and could range from a disaster on the scale of Hurricane Katrina or 9/11, to an ice storm or drought. This legislation gives the SBA additional options and flexibility in the kinds of relief they can offer a community. When a tornado destroys 20 businesses in a small town in the Midwest, SBA can get the regular disaster program up and running fairly quickly. You may not need short-term loans in this instance. But if you know that SBA's resources would be overwhelmed by a storm—just as they were initially with Katrina—these expedited business loans would be very helpful.

This legislation also would direct SBA to study ways to expedite disaster loans for those businesses in a disaster area that have a good, solid track record with the SBA or can provide vital recovery efforts. We had many businesses in the gulf coast that had paid off previous SBA loans, were major sources of employment in their communities, but had to wait months for decisions on their SBA disaster loan applications. I do not want to get rid of the SBA's current practice of reviewing applications on a first-come first-served basis, but there should be some mechanism in place for major disasters to get expedited loans out the door to specific businesses that have a positive record with SBA or those who could serve a vital role in the recovery efforts. Expedited loans would jumpstart impacted economies, get vital capital out to businesses, and retain essential jobs following future disasters.

This bill also makes an important modification to the collateral requirements for disaster loans. The SBA cannot disburse more than $10,000 for an approved loan without showing collateral. This is to limit the loss to the SBA in the event that a loan defaults. However, this disbursement amount has not been increased since 1998 and these days, $10,000 is not enough to get a business up and running. That is why this bill increases this collateral requirement to $14,000 and gives the administrator the ability to increase that amount, in the event of another large-scale disaster. I believe this is a reasonable and fiscally responsible increase, and at the same time gives the administrator flexibility for future disasters which will inevitably occur.

As you may know, I pushed to get language in the last hurricane supplemental appropriations bill in June 2006 to require SBA to develop a disaster plan and report to Congress on its contents by July 15, 2006. SBA provided this status report in July, and I am pleased that, due to my request, the agency provided the completed disaster response plan to our committee on June 1, 2007. That said, it is one thing to draft up a plan but it is not worth the time and effort if there is no one to monitor its implementation and update it when needed. For this reason, I included a provision in this bill to require the administrator to designate one agency employee, who would report directly to him/her, to be responsible for this plan. This disaster planning designee would be responsible for the plan, and more importantly, would be accountable to Congress if it fails. Following Hurricanes Katrina and Rita, not only is execution important but also just as important is clear accountability if these best laid plans fail.

The Small Business Disaster Response and Loan Improvements Act will provide essential tools to make the SBA more proactive, flexible, and most important, more efficient during future disasters. Again, I look forward to working with both Senator SNOWE and Senator KERRY in the coming weeks to begin discussions with our House colleagues to resolve differences on both the Senate-passed bill and the House-passed bill. The goal of both these bills is to ensure that the SBA has everything it needs to better respond following future disasters, so I am hopeful that we can work out a reasonable agreement.

I ask unanimous consent that a copy of a June 29, 2007, letter of support from Administrator Preston, along with a July 31, 2007, letter from Greater New Orleans, Inc. be printed in the

RECORD at the conclusion of my statement.

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

SMALL BUSINESS ADMINISTRATION,
Washington, DC, June 29, 2007.

Hon. JOHN F. KERRY,
Chairman, Committee on Small Business and Entrepreneurship, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my thanks for the efforts you and your colleagues have made to work with the U.S. Small Business Administration and to address the Administration's concerns with some of the provisions in S. 163, ''The Small Business Disaster Response and Loan Improvements Act of 2007''.

At this point, if amended by the Bond Amendment, the Administration has no objections to Senate passage of S. 163. However, the Administration would request a longer extension of the authorization language in Section 3 to avoid the need for concern over unintended expiration of programs and activities. We would also recommend clarifying that the Administrator would have flexibility under Section 205 to designate portions of a declared catastrophic national disaster area as a HUBZone area, without extending this designation to an entire disaster area.

We look forward to working with you when the bill goes into conference discussions with the U.S. House of Representatives. If you have any questions or comments, please contact me directly.

Sincerely yours,

STEVEN C. PRESTON,
Administrator.

GREATER NEW ORLEANS, INC.,
New Orleans, LA, July 31, 2007.

Hon. JOHN KERRY,
Chairman, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

Hon. OLYMPIA SNOWE,
Ranking Member, Senate Committee on Small Business and Entrepreneurship, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN KERRY AND RANKING MEMBER SNOWE: Greater New Orleans, Inc., the 10-parish economic development organization for the New Orleans, Louisiana region, would like to express strong support of S. 163, The Small Business Disaster Response and Loan Improvements Act of 2007 reported unanimously by the Senate Small Business Committee in May of this year, after months of thorough committee deliberations.

In our assessment, S. 163 sponsored by Senator Kerry and co-sponsored by five other Senators represents significant legislation to improve SBA's response to future storm events, as part of overall Congressional efforts to improve the federal government's role, learning from the catastrophic hurricanes of 2004 and 2005.

More specifically, the legislation would provide a new level of SBA response for catastrophic disasters, expedited assistance to small businesses, adjustment of the loan guarantee levels and loan caps, a better coordination process with FEMA, increased response resources, improved access and overall accountability of SBA services. These policy changes will go a long way to helping local communities get back on their feet in future federally declared disasters.

Two years after the tragedy of Hurricane Katrina, our region is still struggling to restore our population, housing stock, healthcare services, infrastructure, and basic economy. 18,000 small businesses in our area were directly impacted by the hurricane, experiencing significant physical and economic damages. As these businesses fight to restore operations, hire adequate staff, find affordable insurance, and meet payroll, it seems appropriate to have their trials and tribulations be cause for new federal policies.

By many accounts and measures the SBA capacity, resources, process and policies following Hurricane Katrina were inadequate to meet the needs of the devastated business community. However, rather than complain about the past, it would be more productive to make every effort to improve the SBA disaster program and protocols, changes requiring aggressive congressional action. It appears that S. 163 is a significant step in that direction.

We applaud your leadership of this issue, and that of our Louisiana Senators Landrieu and Vitter, in forwarding this important legislation to step up federal efforts and capacity in future storms to protect our nation's assets and citizens who may be impacted in the coming months and years. As we approach the peak of the 2007 hurricane season, we urge the full Senate to expedite this legislation in order to pass these vital SBA reforms.

Thank you for your consideration.

Sincerely,

MARK C. DRENNEN,
President & CEO.

The bill (S. 163), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

APPALACHIAN REGIONAL DEVELOPMENT ACT AMENDMENTS OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 136, S. 496.

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

The legislative clerk read as follows:

A bill (S. 496) to reauthorize and improve the program authorized by the Appalachian Regional Development Act of 1965.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 496

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 ''Appalachian Regional Development Act Amendments of 2007''.

SEC. 2. LIMITATION ON AVAILABLE AMOUNTS; MAXIMUM COMMISSION CONTRIBUTION.

(a) GRANTS AND OTHER ASSISTANCE.—Section 14321(a) of title 40, United States Code, is amended—

(1) in paragraph (1)(A), by striking clause (i) and inserting the following:

''(i) the amount of the grant shall not exceed—

''(I) 50 percent of administrative expenses;

''(II) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or

''(III) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses;''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), of the cost of any project eligible for financial assistance under this section, not more than—

''(i) 50 percent may be provided from amounts made available to carry out this subtitle;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this subtitle; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this subtitle.''.

(b) DEMONSTRATION HEALTH PROJECTS.—Section 14502 of title 40, United States Code, is amended—

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

''(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized to be appropriated by this section, may be provided for up to—

''(A) 50 percent of the cost of that operation;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or

''(C) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation.''; and

(2) in subsection (f), by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—

''(A) 70 percent; or

''(B) the maximum Federal contribution percentage authorized by this section.''.

(c) ASSISTANCE FOR PROPOSED LOW- AND MIDDLE-INCOME HOUSING PROJECTS.—Section 14503 of title 40, United States Code, is amended—

(1) in subsection (d), by striking paragraph (1) and inserting the following:

''(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—

''(A) 50 percent of that cost;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or

''(C) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost.''; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecoverable from the proceeds of a permanent loan made to finance the project shall—

''(A) not be made to an organization established for profit; and

''(B) except as provided in paragraph (2), not exceed—

''(i) 50 percent of those expenses;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.''.

(d) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Section 14504 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.''.

(e) ENTREPRENEURSHIP INITIATIVE.—Section 14505 of title 40, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.''.

(f) REGIONAL SKILLS PARTNERSHIPS.—Section 14506 of title 40, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.''.

(g) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 14507(g) of title 40, United States Code, is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.''.

SEC. 3. ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.

(a) IN GENERAL.—Subchapter I of chapter 145 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

''§ 14508. Economic and energy development initiative

''(a) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to individuals or entities in the Appalachian region for use in carrying out projects and activities—

''(1) to promote energy efficiency in the Appalachian region to enhance the economic competitiveness of the Appalachian region; *and*

''(2) to increase the use of renewable energy resources, particularly biomass, in the Appalachian region to produce alternative transportation fuels, electricity, and heat.**[**; *and***]**

[''(3) to support the development of conventional energy resources, particularly advanced clean coal, in the Appalachian region to produce alternative transportation fuels, electricity, and heat.**]**

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible to be funded by a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; and

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.

''(c) SOURCES OF ASSISTANCE.—Subject to subsection (b), grants provided under this section may be provided—

''(1) entirely from amounts made available to carry out this section; or

''(2) from amounts made available to carry out this section, in combination with amounts made available under other Federal programs or from any other source.

''(d) FEDERAL SHARE.—Notwithstanding any other provision of law limiting a Federal share of the cost of a project under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission determines to be appropriate.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of title 40, United States Code, is amended by inserting after the item relating to section 14507 the following:

''14508. Economic and energy development initiative.''.

SEC. 4. DISTRESSED, AT-RISK, AND ECONOMICALLY STRONG COUNTIES.

(a) DESIGNATION OF AT-RISK COUNTIES.—Section 14526 of title 40, United States Code, is amended—

(1) in the section heading, by inserting ''**, at-risk,**'' after ''**Distressed**''; and

(2) in subsection (a)(1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

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

(C) by inserting after subparagraph (A) the following:

''(B) designate as 'at-risk counties' those counties in the Appalachian region that are most at risk of becoming economically distressed; and''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of title 40, United States Code, is amended by striking the item relating to section 14526 and inserting the following:

''14526. Distressed, at-risk, and economically strong counties.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 14703 of title 40, United States Code, is amended to read as follows:

''§ 14703. Authorization of appropriations

''(a) IN GENERAL.—In addition to the amounts made available under section 14501, there are authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—

''(1) $95,200,000 for fiscal year 2007;

''(2) $98,600,000 for fiscal year 2008;

''(3) $102,000,000 for fiscal year 2009;

''(4) $105,700,000 for fiscal year 2010; and

''(5) $109,400,000 for fiscal year 2011.

''(b) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14504:

''(1) $10,000,000 for fiscal year 2007.

''(2) $8,000,000 for fiscal year 2008.

''(3) $5,000,000 for each of fiscal years 2009 through 2011.

''(c) ECONOMIC AND ENERGY INITIATIVE.—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14508:

''(1) $12,000,000 for fiscal year 2007.

''(2) $12,400,000 for fiscal year 2008.

''(3) $12,900,000 for fiscal year 2009.

''(4) $13,300,000 for fiscal year 2010.

''(5) $13,800,000 for fiscal year 2011.

''(d) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

''(e) ALLOCATION OF FUNDS.—Funds approved by the Appalachian Regional Commission for a project in an Appalachian State pursuant to a congressional directive shall be derived from the total amount allocated to the State by the Appalachian Regional Commission from amounts made available to carry out this subtitle.''.

SEC. 6. TERMINATION.

Section 14704 of title 40, United States Code, is amended by striking ''**[**2006**]** *2007*'' and inserting ''2011''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2006.

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

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

The committee amendments were agreed to.

The bill (S. 496), as amended, was ordered to be engrossed for a third read, was read the third time, and passed.

S. 496

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 ''Appalachian Regional Development Act Amendments of 2007''.

SEC. 2. LIMITATION ON AVAILABLE AMOUNTS; MAXIMUM COMMISSION CONTRIBUTION.

(a) GRANTS AND OTHER ASSISTANCE.—Section 14321(a) of title 40, United States Code, is amended—

(1) in paragraph (1)(A), by striking clause (i) and inserting the following:

''(i) the amount of the grant shall not exceed—

''(I) 50 percent of administrative expenses;

''(II) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which a distressed county designation is in effect under section 14526, 75 percent of administrative expenses; or

''(III) at the discretion of the Commission, if the grant is to a local development district that has a charter or authority that includes the economic development of a county or a part of a county for which an at-risk county designation is in effect under section 14526, 70 percent of administrative expenses;''; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), of the cost of any project eligible for financial assistance under this section, not more than—

''(i) 50 percent may be provided from amounts made available to carry out this subtitle;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this subtitle; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this subtitle.''.

(b) DEMONSTRATION HEALTH PROJECTS.—Section 14502 of title 40, United States Code, is amended—

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

''(2) LIMITATION ON AVAILABLE AMOUNTS.—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized to be appropriated by this section, may be provided for up to—

''(A) 50 percent of the cost of that operation;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of the cost of that operation; or

''(C) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of the cost of that operation.''; and

(2) in subsection (f), by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to the lesser of—

''(A) 70 percent; or

''(B) the maximum Federal contribution percentage authorized by this section.''.

(c) ASSISTANCE FOR PROPOSED LOW- AND MIDDLE-INCOME HOUSING PROJECTS.—Section 14503 of title 40, United States Code, is amended—

(1) in subsection (d), by striking paragraph (1) and inserting the following:

''(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) for the cost of planning and obtaining financing (including the cost of preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts) of a project described in that subsection may be made for up to—

''(A) 50 percent of that cost;

''(B) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of that cost; or

''(C) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of that cost.''; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—A grant under this section for expenses incidental to planning and obtaining financing for a project under this section that the Secretary considers to be unrecoverable from the proceeds of a permanent loan made to finance the project shall—

''(A) not be made to an organization established for profit; and

''(B) except as provided in paragraph (2), not exceed—

''(i) 50 percent of those expenses;

''(ii) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent of those expenses; or

''(iii) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent of those expenses.''.

(d) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Section 14504 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.''.

(e) ENTREPRENEURSHIP INITIATIVE.—Section 14505 of title 40, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.''.

(f) REGIONAL SKILLS PARTNERSHIPS.—Section 14506 of title 40, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible for a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; or

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.''.

(g) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 14507(g) of title 40, United States Code, is amended—

(1) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(2) by adding at the end the following:

''(3) AT-RISK COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which an at-risk county designation is in effect under section 14526 may be increased to 70 percent.''.

SEC. 3. ECONOMIC AND ENERGY DEVELOPMENT INITIATIVE.

(a) IN GENERAL.—Subchapter I of chapter 145 of subtitle IV of title 40, United States Code, is amended by adding at the end the following:

''§ 14508. Economic and energy development initiative

''(a) PROJECTS TO BE ASSISTED.—The Appalachian Regional Commission may provide technical assistance, provide grants, enter into contracts, or otherwise provide amounts to individuals or entities in the Appalachian region for use in carrying out projects and activities—

''(1) to promote energy efficiency in the Appalachian region to enhance the economic competitiveness of the Appalachian region; and

''(2) to increase the use of renewable energy resources, particularly biomass, in the Appalachian region to produce alternative transportation fuels, electricity, and heat.

''(b) LIMITATION ON AVAILABLE AMOUNTS.—Of the cost of any project eligible to be funded by a grant under this section, not more than—

''(1) 50 percent may be provided from amounts made available to carry out this section;

''(2) in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526, 80 percent may be provided from amounts made available to carry out this section; and

''(3) in the case of a project to be carried out in a county for which an at-risk county designation is in effect under section 14526, 70 percent may be provided from amounts made available to carry out this section.

''(c) SOURCES OF ASSISTANCE.—Subject to subsection (b), grants provided under this section may be provided—

''(1) entirely from amounts made available to carry out this section; or

''(2) from amounts made available to carry out this section, in combination with amounts made available under other Federal programs or from any other source.

''(d) FEDERAL SHARE.—Notwithstanding any other provision of law limiting a Federal share of the cost of a project under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission determines to be appropriate.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of title 40, United States Code, is amended by inserting after the item relating to section 14507 the following:

''14508. Economic and energy development initiative.''.

SEC. 4. DISTRESSED, AT-RISK, AND ECONOMICALLY STRONG COUNTIES.

(a) DESIGNATION OF AT-RISK COUNTIES.—Section 14526 of title 40, United States Code, is amended—

(1) in the section heading, by inserting ''**, at-risk,**'' after ''**Distressed**''; and

(2) in subsection (a)(1)—

(A) by redesignating subparagraph (B) as subparagraph (C);

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

(C) by inserting after subparagraph (A) the following:

''(B) designate as 'at-risk counties' those counties in the Appalachian region that are most at risk of becoming economically distressed; and''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 145 of title 40, United States Code, is amended by striking the item relating to section 14526 and inserting the following:

''14526. Distressed, at-risk, and economically strong counties.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 14703 of title 40, United States Code, is amended to read as follows:

''§ 14703. Authorization of appropriations

''(a) IN GENERAL.—In addition to the amounts made available under section 14501, there are authorized to be appropriated to the Appalachian Regional Commission to carry out this subtitle—

''(1) $95,200,000 for fiscal year 2007;

''(2) $98,600,000 for fiscal year 2008;

''(3) $102,000,000 for fiscal year 2009;

''(4) $105,700,000 for fiscal year 2010; and

''(5) $109,400,000 for fiscal year 2011.

''(b) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14504:

''(1) $10,000,000 for fiscal year 2007.

''(2) $8,000,000 for fiscal year 2008.

''(3) $5,000,000 for each of fiscal years 2009 through 2011.

''(c) ECONOMIC AND ENERGY INITIATIVE.—Of the amounts made available under subsection (a), the following amounts may be used to carry out section 14508:

''(1) $12,000,000 for fiscal year 2007.

''(2) $12,400,000 for fiscal year 2008.

''(3) $12,900,000 for fiscal year 2009.

''(4) $13,300,000 for fiscal year 2010.

''(5) $13,800,000 for fiscal year 2011.

''(d) AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.

''(e) ALLOCATION OF FUNDS.—Funds approved by the Appalachian Regional Commission for a project in an Appalachian State pursuant to a congressional directive shall be derived from the total amount allocated to the State by the Appalachian Regional Commission from amounts made available to carry out this subtitle.''.

SEC. 6. TERMINATION.

Section 14704 of title 40, United States Code, is amended by striking ''2007'' and inserting ''2011''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act take effect on October 1, 2006.

CONGRATULATING THE 15TH POET LAUREATE

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to S. Res. 304.

The PRESIDING OFFICER. The clerk will report the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 304) congratulating Charles Simic on being named the 15th Poet Laureate of the United States of America by the Library of Congress.

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

Mr. REID. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 304) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 304

Whereas Charles Simic was born in Yugoslavia on May 9, 1938, and lived through the events of World War II;

Whereas, in 1954, at age 16 Charles Simic immigrated to the United States, and moved to Oak Park, Illinois;

Whereas Charles Simic served in the United States Army from 1961 to 1963;

Whereas Charles Simic received a bachelor's degree from New York University in 1966;

Whereas Charles Simic has been a United States citizen for 36 years and currently resides in Strafford, New Hampshire;

Whereas Charles Simic has authored 18 books of poetry;

Whereas Charles Simic is a professor emeritus of creative writing and literature at the University of New Hampshire, where he taught for 34 years before retiring;

Whereas Charles Simic is the 5th person to be named Poet Laureate with ties to New Hampshire, including Robert Frost, Maxine Kumin, Richard Eberhart, and Donald Hall;

Whereas Charles Simic won the Pulitzer Prize for Poetry in 1990 for his work ''The World Doesn't End'';

Whereas Charles Simic wrote ''Walking the Black Cat'' in 1996, which was a finalist for the National Book Award for Poetry;

Whereas Charles Simic won the Griffin Prize in 2005 for ''Selected Poems: 1963-2003'';

Whereas Charles Simic held a MacArthur Fellowship from 1984 to 1989 and has held fellowships from the Guggenheim Foundation and the National Endowment for the Arts;

Whereas Charles Simic earned the Edgar Allan Poe Award, the PEN Translation Prize, and awards from the American Academy of Arts and Letters and the National Institute of Arts and Letters;

Whereas Charles Simic served as Chancellor of the Academy of American Poets;

Whereas Charles Simic received the 2007 Wallace Stevens Award from the American Academy of Poets; and

Whereas on August 2, 2007, Librarian of Congress James H. Billington announced the appointment of Charles Simic to be the Library's 15th Poet Laureate Consultant in Poetry: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Charles Simic for being named the 15th Poet Laureate of the United States of America by the Library of Congress; and

(2) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to Charles Simic.

OPEN GOVERNMENT ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 127, S. 849.

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

The legislative clerk read as follows:

A bill (S. 849) to promote accessibility, accountability, and openness in Government by strengthening section 552 of title V, United States Code (commonly referred to as the Freedom of Information Act), 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 has passed the Leahy-Cornyn Openness Promotes Effectiveness in our National Government Act'' (the ''OPEN Government Act''), S. 849, before adjourning for the August recess. This important Freedom of Information Act legislation will strengthen and reinvigorate FOIA for all Americans.

For more than four decades, FOIA has translated the great American values of openness and accountability into practice by guaranteeing access to government information. The OPEN Government Act will help ensure that these important values remain a cornerstone of our American democracy.

I commend the bill's chief Republican cosponsor, Senator JOHN CORNYN, for his commitment and dedication to passing FOIA reform legislation this year. Since he joined the Senate 5 years ago, Senator CORNYN and I have worked closely together on the Judiciary Committee to ensure that FOIA and other open government laws are preserved for future generations. The passage of the OPEN Government Act is a fitting tribute to our bipartisan partnership and to openness, transparency and accountability in our government.

I also thank the many cosponsors of this legislation for their dedication to open government and I thank the Majority Leader for his strong support of this legislation. I am also appreciative of the efforts of Senator KYL and Senator BENNETT in helping us to reach a compromise on this legislation, so that the Senate could consider and pass meaningful FOIA reform this legislation before the August recess.

But, most importantly, I especially want to thank the many concerned citizens who, knowing the importance of this measure to the American people's right to know, have demanded action on this bill. This bill is endorsed by more than 115 business, public interest, and news organizations from across the political and ideological spectrum, including the American Library Association, the U.S. Chamber of Commerce, OpenTheGovernment.org, Public Citizen, the Republican Liberty Caucus, the Sunshine in Government Initiative and the Vermont Press Association. The invaluable support of these and many other organizations is what led the opponents of this bill to come around and support this legislation.

As the first major reform to FOIA in more than a decade, the OPEN Government Act will help to reverse the troubling trends of excessive delays and lax FOIA compliance in our government and help to restore the public's trust in their government. This bill will also improve transparency in the Federal Government's FOIA process by:

Restoring meaningful deadlines for agency action under FOIA;

Imposing real consequences on federal agencies for missing FOIA's 20-day statutory deadline;

Clarifying that FOIA applies to government records held by outside private contractors;

Establishing a FOIA hotline service for all federal agencies; and

Creating a FOIA Ombudsman to provide FOIA requestors and federal agencies with a meaningful alternative to costly litigation.

Specifically, the OPEN Government Act will protect the public's right to know, by ensuring that anyone who gathers information to inform the public, including freelance journalist and bloggers, may seek a fee waiver when they request information under FOIA. The bill ensures that federal agencies will not automatically exclude Internet blogs and other Web-based forms of media when deciding whether to waive FOIA fees. In addition, the bill also clarifies that the definition of news media, for purposes of FOIA fee waivers, includes free newspapers and individuals performing a media function who do not necessarily have a prior history of publication.

The bill also restores meaningful deadlines for agency action, by ensuring that the 20-day statutory clock under FOIA starts when a request is received by the appropriate component of the agency and requiring that agency FOIA offices get FOIA requests to the appropriate agency component within 10 days of the receipt of such requests. The bill allows federal agencies to toll the 20-day clock while they are awaiting a response to a reasonable request for information from a FOIA requester on one occasion, or while the agency is awaiting clarification regarding a FOIA fee assessment. In addition, to encourage agencies to meet the 20-day time limit, the bill prohibits an agency from collecting search fees if it fails to meet the 20-day deadline, except in the case of exceptional circumstances as defined by the FOIA statute.

The bill also addresses a relatively new concern that, under current law, federal agencies have an incentive to delay compliance with FOIA requests until just before a court decision that is favorable to a FOIA requestor. The Supreme Court's decision in Buckhannon Board and Care Home, Inc. v. West Virginia Dep't of Health and Human Resources, 532 U.S. 598 (2001), eliminated the ''catalyst theory'' for attorneys' fees recovery under certain federal civil rights laws. When applied to FOIA cases, Buckhannon precludes FOIA requesters from ever being eligible to recover attorneys fees under circumstances where an agency provides the records requested in the litigation just prior to a court decision that would have been favorable to the FOIA requestor. The bill clarifies that Buckhannon does not apply to FOIA cases. Under the bill, a FOIA requester can obtain attorneys' fees when he or she files a lawsuit to obtain records from the government and the government releases those records before the court orders them to do so. But, this provision would not allow the requester to recover attorneys' fees if the requester's claim is wholly insubstantial.

To address concerns about the growing costs of FOIA litigation, the bill also creates an Office of Government Information Services in the National Archives and creates an ombudsman to mediate agency-level FOIA disputes. In addition the bill ensures that each federal agency will appoint a Chief FOIA Officer, who will monitor the agency's compliance with FOIA requests, and a FOIA Public Liaison who will be available to FOIA to resolve FOIA related disputes.

Finally, the bill does several things to enhance the agency reporting and tracking requirements under FOIA. Tracking numbers are not required for FOIA requests that are anticipated to take ten days or less to process. The bill creates a tracking system for FOIA requests to assist members of the public and the media. The bill also establishes a FOIA hotline service for all federal agencies, either by telephone or on the Internet, to enable requestors to track the status of their FOIA requests.

In addition, the bill also clarifies that FOIA applies to agency records that are held by outside private contractors, no matter where these records are located. And to create more transparency about the use of statutory exemptions under FOIA, the bill ensures that FOIA statutory exemptions that are included in legislation enacted after the passage of this bill clearly cite the FOIA statute and clearly state the intent to be exempt from FOIA.

The Freedom of Information Act is critical to ensuring that all American citizens can access information about the workings of their government. But, after four decades this open government law needs to be strengthened. I am pleased that the reforms contained in the OPEN Government Act will ensure that FOIA is reinvigorated so that it works more effectively for the American people.

I am also pleased that, by passing this important reform legislation today, the Senate has reaffirmed the principle that open government is not a Democratic issue or a Republican issue. But, rather, it is an American issue and an American value. I commend all of my Senate colleagues, on both sides of the aisle, for unanimously passing this historic FOIA reform measure. I hope that the House of Representatives, which overwhelmingly passed a similar measure earlier this year, will promptly take up and pass this bill and that the President will then promptly sign it into law.

Mr. KYL. Mr. President, I rise today to comment on S. 849, the OPEN Government Act. As a result of negotiations between Senators CORNYN, LEAHY, and me, we have reached an agreement on an amendment to this bill that addresses my concerns about the legislation while keeping true to the bill's intended purposes. When this bill was marked up in the Senate Judiciary Committee several months ago, I filed a number of amendments intended to address problems with the bill. Senator LEAHY asked me at the mark up to withhold offering my amendments in favor of addressing my concerns through negotiations with him and with Senator CORNYN. I agreed to do so, and later submitted a statement of additional views to the committee report for this bill that described the nature of some of my concerns, and that included as an attachment the Justice Department's lengthy Views Letter on this bill. After follow-up meetings with the Justice Department and Office of Management and Budget to elucidate the nature of some of those agencies' concerns and to try to come up with compromise language, negotiations among members of the Senate began. I am pleased to report that those negotiations have proved fruitful. Our negotiations have benefited from extensive assistance from the Justice Department and other parts of the executive branch, as well as from the input of various journalists' organizations. While none of these parties has gotten exactly what it wants, I do believe that we now have a bill that strikes the right balance with regard to FOIA—a bill that will make FOIA work more smoothly and efficiently.

Allow me to describe some of the changes that my amendment will make to the underlying bill. Section three of the original bill broadened the definition of media requesters to include anyone who ''intends'' to broadly disseminate information. My concern, which was also expressed by the Justice Department, was that in the age of the internet, anyone can plausibly state that he ''intends'' to broadly disseminate the information that he obtains through FOIA. The media-requester category is important because requesters who receive this status are exempt from search fees. Search fees are one of the principal tools that agencies use to encourage requesters to clarify and sharpen their requests. When someone makes a broad and vague request, the agency will come back with an estimate of the cost of conducting such a search. Often, the individual will then sharpen that request. This saves the agency time and the requester money. According to some FOIA administrators, legitimate media requesters rarely make vague

requests. These requesters usually know what they want and they want to get it quickly. But if virtually any requester could be exempted from search fees by claiming that he intends to widely disseminate the information, search fees would no longer serve as a tool for encouraging requesters to focus their requests. Overall, this would waste FOIA resources and slow down processing of all requests. Such a result would not be in anyone's interest.

The compromise language included in my amendment clarifies the definition of media requester in a way that protects internet publications and freelance journalists but that still preserves commonsense limits on who can claim to be a journalist. At the suggestion of some media representatives, we have incorporated into the amendment the definition of media requester that was announced by the DC Circuit in *National Security Archive* v. *U.S. Department of Defense*. 880 F.2d 1381 (D.C. Cir. 1989). That definition focuses on public interest in the collected information, the use of editorial skill to process that information into news, and the distribution of that news to an audience. It would appear in my view to protect publishers of newsletters and other smaller news sources, as well as, obviously, the types of organizations described in that opinion. On the other hand, given that this construction of the term news media as used in FOIA has been in effect for 17 years, I do not think that anyone can reasonably fear that codifying it will turn the world upside down. I was amused to see that Judge Ginsburg's analysis of the statute's definition of news media relied in part on conflicting legislative statements made by Senators HATCH and LEAHY, two members with whom I currently serve on the Senate Judiciary Committee, regarding the meaning of the 1986 amendments to FOIA. By incorporating a judicially crafted definition of news media, I believe that my amendment spares the courts the indignity of being compelled to parse conflicting Senate floor statements in order to divine the meaning of that term.

The remainder of my amendment's changes to section 3 codify language that has been adopted by some administrative agencies to clarify who is a media requester. Other than stylistic edits, that agency language has been modified in my amendment only to make express that news-media entities include periodicals that are distributed for free to the public. This will protect the fee status of the numerous free newspapers that have become common in American cities in recent years. The agency language codified here also extends express protection to freelance journalists.

Overall, this language should guarantee news-media status for new electronic formats and for anyone who would logically be considered a journalist, even when that journalist's method of news distribution takes on new means and forms. But the language should also prevent gamesmanship by individuals who cannot logically be considered journalists but who are willing to assert that they are journalists in order to avoid paying search fees.

The modified bill also makes important changes to section 6 of the bill. The original version of this section eliminated certain important FOIA exemptions as a penalty for an agency's failure to comply with FOIA's 20-day response deadline. I commented at length on this provision of the bill at the beginning of my additional views to the committee report for the bill. This provision was far and away the most problematic provision of the original bill and I am relieved that Senators LEAHY and CORNYN have agreed to abandon this approach to deadline enforcement.

My amendment adopts a modified version of an approach to deadline enforcement that was suggested by Senators CORNYN and LEAHY. Their approach denies search fees to agencies that do not meet FOIA deadlines. I have modified my colleagues' proposal by including an exception allowing an agency to still collect search fees if a delay in processing the request was the result of unusual or exceptional circumstances. These exceptions have been part of FOIA for many years now and have a reasonably well-known meaning. I expect that these exceptions will account for virtually all of the cases where an agency cannot reasonably be expected to process a particular FOIA request within the paragraph (6) time limits.

Preserving this type of flexibility is important. A penalty that seriously punishes an agency, which I believe that denying search fees would do, would likely backfire if the penalty did not account for complex or broad requests that cannot reasonably be processed within the FOIA deadlines. If the penalties for not processing a request within the deadlines are harsh and include no exceptions, the agency will process every request within 20 or 30 days. It will simply do a sloppy job. That would not improve the operation of the FOIA and would not be in anyone's interest.

The original bill also made FOIA's 20-day clock run from the time when any part of a government agency or department received a FOIA request. Again, the modified bill exempts FOIA requesters from search fees if the 20-day deadline is not met and no unusual or exceptional circumstances are present. These provisions in combination would have created a perverse incentive for a FOIA requester to ignore the addressing instructions on an agency's website and send his request to some distant outpost of an agency or department, in the hope that doing so would prevent the agency from meeting the 20-day deadline and the requester would be exempted from search fees. I would not expect more than a very small portion of FOIA requesters to engage in such gamesmanship. But given the large number of individuals and institutions that make FOIA requests, it is inevitable that some bad apples would abuse the rules if Congress were to create an incentive to do so.

My amendment makes the FOIA deadline run only from the time when the appropriate component of an agency receives the request. To address concerns that an agency might unreasonably delay in routing a request to the appropriate component, I have added language providing that the deadline shall begin to run from no later than ten days after some designated FOIA component receives the request. I think that it is reasonable to expect that requesters send their requests to some designated FOIA-receiving component of an agency, and I think that it is reasonable to expect that once a FOIA component of the agency gets the request, it will expeditiously route that request to the appropriate FOIA component.

My amendment also changes the bill's standard for awarding attorney's fees to FOIA requesters when litigation is ended short of a judgement or court-approved settlement. The original bill would have entitled a requester to fees whenever an agency voluntarily or unilaterally changed its position and handed over the requested information after litigation had commenced. As I noted in my statement of additional views to the committee report, I am concerned that such a standard would discourage agencies from releasing documents in situations where the agency is fully within its rights to withhold a record—for example, because some clear exception applies—but senior personnel at the agency decide to produce the documents anyway. To impose fees in such a situation would be to adopt a rule of no good deed goes unpunished. It would also likely discourage some disclosures. If an exemption clearly applied to the records in question, the only way that the agency could avoid being assessed fees would be to continue litigating. Also, in my view attorney's fee shifting should only reward litigation that was meritorious. A baseless lawsuit should not be rewarded with attorney's fees. There is enough bad lawyering around already. The government should not be paying litigants for bringing claims that lack legal merit.

On the other hand, Senator CORNYN has presented compelling arguments that since the time when the Buckhannon standard was extended to FOIA, some agencies have begun denying clearly meritorious requests and then unilaterally settling the case on the eve of trial to avoid paying attorney's fees. Obviously, such behavior should not be encouraged. Or at the very least, the requester should be compensated for the legal expense of forcing agency compliance with a meritorious request. Senator CORNYN has

made a strong case that the current standard denies the public access to important information about the operations of the Federal Government.

In the spirit of compromise, and out of deference to Senator CORNYN's arguments and persistence, I have agreed to incorporate language into my amendment that does not fully address my concerns about this part of the bill and that is very generous to FOIA requesters. The language of the amendment entitles a requester to fees unless the court finds that the requester's claims were not substantial. This is a pretty low standard. It would allow the requester to be deemed a prevailing party for fee-assessment purposes even if the government's litigating position was entirely reasonable—or even if the government's arguments were meritorious and the government would have won had the case been litigated to a judgment.

Substantiality is a test that is employed in the Federal courts to determine whether a federal claim is adequate to justify retaining jurisdiction over supplemental or other State law claims. It is generally understood to require only that the plaintiff's complaint not be clearly nonmeritorious on its face and not be clearly precluded by controlling precedent. The classic and most-quoted statement of the substantiality standard appears to be that in the Supreme Court's decision in *Levering & Garrigues Co.* v. *Morrin*, 289 U.S. 103, 105 (1933), in which Justice Sutherland explained that a claim may be ''plainly unsubstantial either because obviously without merit, or because its unsoundness so clearly results from the previous decisions of this court as to foreclose the subject and leave no room for the inference that the questions sought to be raised can be the subject of controversy.'' The same principle is expressed through different words in *Oneida Indian Nation* v. *County of Oneida*, 414 U.S. 661, 666 (1974), as whether the claim is ''so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a Federal controversy,'' and in *Kaz Manufacturing* v. *Chesebrough-Pond's, Inc.*, 211 F.Supp. 815, 822 (S.D.N.Y. 1962), as whether ''it cannot be said that the claim is obviously without merit or that its invalidity clearly results from the previous decisions of this court or, where the claim is pretty clearly unfounded.''

One aspect of this test that makes it well-suited to evaluating attorney's fee requests is that the ''insubstantiality'' of a claim is a quality ''which is apparent at the outset.'' *Rosado* v. *Wyman*, 397 U.S. 397, 404 (1970). It is a standard that courts should be able to apply without further factual inquiry into the nature of a complaint. It thus addresses one of the Supreme Court's major concerns in the Buckhannon case, that ''a request for attorney's fees should not result in a second major litigation.''

Part of the very definition of the substantiality test is that courts can evaluate the complaint on its pleadings or without resolving factual disputes. A claim is substantial so long as ''it cannot be said that [it] is obviously without merit, or clearly foreclosed by prior Supreme Court decisions, or a matter that should be dismissed on the pleadings alone without the presentation of some evidence.'' *Rumbaugh* v. *Winifrede Railroad Company*, 331 F.2d 530, 539–40 (4th Cir. 1964). ''The substantiality of the Federal claim is ordinarily determined on the basis of the pleadings''—on whether ''it appears that the Federal claim is subject to dismissal under F.R.Civ.P. 12(b)(6) or could be disposed of on a motion for summary judgment under F.R.Civ.P. 56.'' *Tully* v. *Mott Supermarkets, Inc.*, 540 F.2d 187, 196 (3d Cir. 1976). Other cases articulating these principles are *Kavit* v. *A.L. Stam & Co.*, 491 F.2d 1176, 1179–80 (2d Cir. 1974) (Friendly, J.); *Scholz Homes, Inc.* v. *Maddox*, 379 F.2d 84, 87 (6th Cir. 1967); *Smith* v. *Metropolitan Development Housing Agency*, 857 F.Supp. 597, 601 (M.D. Tenn. 1994); *In the Matter of Union National Bank & Trust Company of Souderton, Pennsylvania*, 298 F.Supp. 422, 424 (E.D. Pa. 1969).

I hope that these comments on my understanding of the law in this area are of assistance to courts and litigants who will now be forced to adapt to the application of the substantiality test to FOIA fee shifting. Obviously this transition would be easier had we adopted a test more familiar to this area of the law, but the exigencies of legislative compromise have precluded such an outcome. For some recent and very thorough examples of how a substantiality analysis is actually conducted, courts and litigants should also look to Judge Williams's panel opinion in *Decatur Liquors, Inc.* v. *District of Columbia*, 478 F.3d 360, 363–63 (D.C. Cir. 2007), and to the Sixth Circuit's opinion in *Wal-Juice Bar, Inc.* v. *Elliott*, 899 F.2d 1502, 1505–07 (6th Cir. 1990).

Again, I would have preferred that the Senate select some standard that protects from fee assessments an agency that releases information when the law clearly applied an exemption to the requested information. Agencies will still be protected by the discretionary factors considered in the fee-shifting system, but the lacks-a-reasonable-legal-basis factor is not always controlling and does not create a guaranteed safe harbor. I fear that the standard that we adopt today will lead some agency employees to withhold information that they would otherwise be inclined to release out of concern that unilaterally releasing the information would make the agencies subject to fee assessments.

I would also note that the substantiality test would have been unacceptable were this a fee-shifting statute that assessed fees against private parties. If a private party adopts a meritorious position in litigation but then unilaterally settles, the Federal Government could not rightfully force that party to pay attorney's fees. The occasional unfairness of this provision—the fact that it will sometimes require the payment of fees to a party whose litigation position lacked merit—is tolerable only because the only party that will be forced to pay fees under this provision even when that party was in the right is the government.

I would also like to emphasize for the legislative record that I had originally proposed formulating this standard as ''provided that the complainant's claim is substantial''—and I would have been equally content with language along the lines of ''unless the complainant's claim is insubstantial.'' The double negative in the amendment was not my proposal and I accept no responsibility for that grammatical infraction. It is only because others have insisted on that formulation and I can perceive no substantive difference between ''not insubstantial'' and ''substantial'' that the double negative appears in my amendment.

My amendment also makes one other important change to section 4 of the bill. The original bill allowed a requester to be deemed a prevailing party if the requester obtained relief through ''an administrative action.'' Agency administrative appeals of FOIA decisions do not require lawyers, and FOIA requesters should not be compensated for or encouraged to bring lawyers into these proceedings. An agency appeal simply means that the plaintiff asks the agency to reconsider its denial of a request. Every agency has an appeal procedure in which it assigns the case to another agency employee trained in FOIA who then reevaluates the request. These appeals are most often successful when the plaintiff provides more information about his request. Legal arguments are not appropriate to these appeals. There is no reason to bring attorneys-fee shifting into this stage of FOIA. Thus my amendment eliminates the fee-shifting section's reference to relief obtained through an administrative action.

Mr. CORNYN. Mr. President, since coming to the U.S. Senate in 2002, I have made it my mission to bring a little ''Texas sunshine'' to Washington.

The State of Texas has one of the strongest laws expanding the right of every citizen to access records documenting what the government is up to. As attorney general of Texas, I was responsible for enforcing Texas's open government laws. I have always been proud that Texas is known for having one of the strongest and most robust freedom of information laws in the country.

Unfortunately, the Sun doesn't shine as brightly in Washington. The Federal Freedom of Information Act, or FOIA, which was signed into law 41 years ago, was designed to guarantee public access to records that explain what the Government is doing.

Some Federal agencies are taking years to even start working on requests. Far too often when citizens

seek records from our Government, they are met with long delays, denials and difficulties. Federal agencies can routinely and repeatedly deny requests for information with near impunity. Making the situation worse, requestors have few alternatives to lawsuits for appealing an agency's decision.

And when requestors do sue agencies, the deck is stacked in the Government's favor.

Courts have ruled that requestors cannot recover legal fees from agencies who improperly withhold information until a judge rules for the requestor. That means an agency can withhold documents without any consequences until the day before a judge's ruling. Then the agency can suddenly send a box full of documents, render the lawsuit moot and leave the requestor with a hefty legal bill. And the agency gets away scot-free.

In the meantime, the delay can keep mismanagement and wasteful practices hidden and unfixed. Documents obtained through FOIA helped reporters for Knight Ridder—now part of McClatchy Company—show the public that veterans who fought bravely for our country have trouble obtaining the medical benefits they deserve upon returning home. Thousands died waiting for their benefits, many more received wrong information. Legal fees alone topped $100,000 along with the time and effort. Few citizens have such time and budgets.

To address problems of long delays and strengthen the ability of every citizen to know what its government is up to, Senator PATRICK LEAHY and I introduced bipartisan legislation to reform FOIA.

There are, unfortunately, many issues in the Senate Judiciary Committee that have become partisan and divisive. So it is especially gratifying to be able to have worked so closely with Chairman LEAHY on an issue as important and as fundamental to our Nation as openness in government.

Today we are making history by passing the Openness Promotes Effectiveness in our National Government Act of 2007, also known as the OPEN Government Act.

I am grateful to Senator LEAHY and to his staff for all their hard work on these issues of mutual interest and national interest. A special thanks to Lydia Griggsby, Senator LEAHY's counsel, for her diligence and hard work. And I would like to thank and to commend Senator LEAHY for his decades-long commitment to freedom of information.

I also want to especially thank Senators KYL and BENNETT and their respective staff members, Joe Matal and Shawn Gunnarson for their good faith efforts to resolve differences and move this bill out of the Senate. We couldn't have done it without their cooperation and fair-mindedness.

Open-government reforms should be embraced by conservatives, liberals, and anyone who believes in the freedom and the dignity of the individual.

Passage of this important legislation is a victory for the American people. From my vantage point here in Washington, DC, it is about holding accountable the politicians who continue to grow the size and scope of the Federal Government. And it is about holding accountable the bureaucrats who populate the Federal Government's ever-expanding reach over individual liberty.

This legislation contains important congressional findings to reiterate and reinforce our belief that FOIA establishes a presumption of openness, and that our government is based not on the need to know, but upon the fundamental right to know. In addition, the act contains over a dozen substantive provisions, designed to achieve four important objectives: (1) to strengthen FOIA and close loopholes, (2) to help FOIA requestors obtain timely responses to their requests, (3) to ensure that agencies have strong incentives to act on FOIA requests in a timely fashion, and (4) to provide FOIA officials with all of the tools they need to ensure that our government remains open and accessible.

The OPEN Government Act is not just pro-openness, pro-accountability, and pro-accessibility—it is also pro-Internet. It requires government agencies to establish a hotline to enable citizens to track their FOIA requests, including Internet tracking, and it grants the same privileged FOIA fee status currently enjoyed by traditional media outlets to bloggers and others who publish reports on the Internet.

The act has the support of business groups, such as the U.S. Chamber of Commerce and National Association of Manufacturers, media groups and more than 100 advocacy organizations from across the political spectrum. Without their help, this legislation would have been impossible.

We owe it to all Americans to help them know what their government is up to and to make our great democracy even stronger and more accountable to its citizens

Mr. REID. Mr. President, I wish the record to reflect how much I appreciate the work of Senator LEAHY on this very important matter. The Freedom of Information Act is something that has needed amending for some time, and I am happy we are able to do it tonight.

I ask unanimous consent that the amendment at the desk be considered and agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD, with no intervening action or debate.

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

The amendment (No. 2655) was agreed to, as follows:

The bill is amended as follows:

(a) NEWS-MEDIA STATUS.—At page 4, strike lines 4 though 15 and insert:

''The term ''a representative of the news media'' means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term ''news'' means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of ''news'') who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.''.

(b) ATTORNEYS' FEES.—At page 5, strike lines 1 through 7 and insert:

''(I) a judicial order, or an enforceable written agreement or consent decree; or

(II) a voluntary or unilateral change in position by the agency, provided that the complainant's claim is not insubstantial.''.

(c) COMMENCEMENT OF 20-DAY PERIOD AND TOLLING.—At page 6, lines 1 through 7 and insert:

''(1) IN GENERAL.—Section 552(a)(6)(A)(i) of title 5, United States Code, is amended by striking ''determination;'' and inserting:

''determination. The 20-day period shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event no later than ten days after the request is first received by any component of the agency that is designated in the agency's FOIA regulations to receive FOIA requests. The 20-day period shall not be tolled by the agency except (I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the FOIA requester or (II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency's receipt of the requester's response to the agency's request for information or clarification ends the tolling period;''.

(d) COMPLIANCE WITH TIME LIMITS.—At page 6, strike line II and all that follows through page 7, line 4, and insert:

''(b) COMPLIANCE WITH TIME LIMITS.—

(1)(A) Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end the following:

''(viii) An agency shall not assess search fees under this subparagraph if the agency fails to comply with any time limit under paragraph (6), provided that no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.''.

(B) Section 552(a)(6)(B)(ii) of title 5, United States Code, is amended by inserting between the first and second sentences the following:

''To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency.''

(e) STATUS OF REQUESTS.—At page 7:

(1) strike lines 17 through 22 and insert:

''(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and'' .

(2) at line 23, strike ''(C)'' and insert ''(B)''.

(f) CLEAR STATEMENT FOR EXEMPTIONS.—At page 8, strike line 19 and all that follows through the end of the section and insert:

''(A) if enacted prior to the date of enactment of the OPEN Government Act of 2007, requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld; or

''(B) if enacted after the date of enactment of the OPEN Government Act of 2007, specifically cites to the Freedom of Information Act.''.

(g) PRIVATE RECORDS MANAGEMENT.—At page 13, lines 14 through 15, strike ''a contract between the agency and the entity.'' and insert ''Government contract, for the purposes of records management.''.

(h) POLICY REVIEWS, AUDITS, AND CHIEF FOIA OFFICERS AND PUBLIC LIAISONS.—Strike section 11 and insert the following:

''SEC. 11. OFFICE OF GOVERNMENT INFORMATION SERVICES.

''(a) IN GENERAL.—Section 552 of title 5, United States Code, is amended by adding at the end the following:

''(h) There is established the Office of Government Information Services within the National Archives and Records Administration. The Office of Government Information Services shall review policies and procedures of administrative agencies under section 552, shall review compliance with section 552 by administrative agencies, and shall recommend policy changes to Congress and the President to improve the administration of section 552. The Office of Government lnfonnation Services shall offer mediation services to resolve disputes between persons making requests under section 552 and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

''(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of section 552 and issue reports detailing the results of such audits.

''(j) Each agency shall—

''(1) Designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

GENERAL DUTIES.—The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

''(A) have agency-wide responsibility for efficient and appropriate compliance with the FOIA;

''(B) monitor FOIA implementation throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing the FOIA;

''(C) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of the FOIA;

''(D) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing the FOIA; and

''(E) facilitate public understanding of the purposes of the FOIA's statutory exemptions by including concise descriptions of the exemptions in both the agency's FOIA handbook issued under section 552(g) of title 5, United States Code, and the agency's annual FOIA report, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply.''

''(2) Designate one or more FOIA Public Liaisons who shall be appointed by the Chief FOIA Officer.

GENERAL DUTIES—FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a FOIA requester can raise concerns about the service the FOIA requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.''

''(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.''.

(i) CRITICAL INFRASTRUCTURE INFORMATION.—Strike section 12 of the bill.

The bill (S. 849) was ordered to be engrossed for a third reading, was read the third time, and passed.

(The bill will be printed in a future edition of the RECORD.)

AUTHORITY FOR COMMITTEES TO REPORT

Mr. REID. Mr. President, I ask unanimous consent that during the recess/adjournment of the Senate, Senate committees may file committee-reported Legislative and Executive Calendar business on Wednesday, August 29, 2007, during the hours of 10 a.m. to 1 p.m.

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

APPOINTMENT AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

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

GOLDEN GAVEL AWARD

Mr. REID. Mr. President, I have been informed the Presiding Officer has received something I have never gotten in all the many years I have been in the Senate, the Golden Gavel Award. For those who are listening, it is given to those people who preside 100 hours, and you have done that. That is tremendous. It is only July, but it shows what a workhorse the Senator from Rhode Island is. There is no better indication than that—presiding. Of course, we will present this award to Senator WHITEHOUSE in the first caucus we have in September.

On this, the most important legislation we dealt with today, FISA—no one worked on it any more than you. The hours you put in on that, well past midnight—you were the talk of the Judiciary Committee. Even though you are a junior member of that committee, your experience as attorney general and as a U.S. attorney, doing all the good things you have done, certainly qualified you, and people looked to you for guidance on that most important piece of legislation.

I say to my friend from Rhode Island how fortunate we are to have you in the Senate.

EXECUTIVE SESSION

NOMINATION OF TEVI DAVID TROY TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to executive session, that the Finance Committee be discharged from the nomination of Tevi David Troy to be Deputy Secretary of Health and Human Services; that the nomination be confirmed, the motion to reconsider be laid on the table, that any statements be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nomination was considered and confirmed, as follows:

Tevi David Troy, of New York, to be Deputy Secretary of Health and Human Services.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate returns to legislative session.

ORDERS FOR TUESDAY, SEPTEMBER 4, 2007

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 12 noon, Tuesday, September 4; that on Tuesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business until 1 p.m., with Senators permitted to speak therein for up to 10 minutes each, and that the time be equally divided and controlled between the leaders or their designees; that at 1 p.m. the Senate proceed to the consideration of Calendar No. 207, H.R. 2642, the Military Construction/Veterans Affairs appropriations.

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

ADJOURNMENT UNTIL TUESDAY, SEPTEMBER 4, 2007, AT 12 P.M.

Mr. REID. Well, it has been a long hard struggle. We have accomplished a lot. I am so glad it is time that I say: If there is no further business, I ask unanimous consent that the Senate stand adjourned under the provisions of S. Con. Res. 43.

There being no objection, the Senate, at 11:08 p.m., adjourned until Tuesday, September 4, 2007, at 12 p.m.

NOMINATION RETURNED TO THE PRESIDENT

Friday, August 3, 2007

The following nomination transmitted by the President of the United States to the Senate during the first session of the 110th Congress, and upon which no action was had at the time of the August adjournment of the Senate, failed of confirmation under the provisions of Rule XXXI, paragraph 6, of the Standing Rules of the Senate.

DEPARTMENT OF JUSTICE

REED VERNE HILLMAN, OF MASSACHUSETTS, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF MASSACHUSETTS FOR THE TERM OF FOUR YEARS.

NOMINATIONS

Executive nominations received by the Senate:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

STUART ISHIMARU, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2012. (REAPPOINTMENT)

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

KATHLEEN M. BALDWIN, 0000
DUANE C. FRIST, 0000
TANYA D. LEHMANN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

MICHAEL L. FARMER, 0000
MATTHEW J. LEDRIDGE, 0000
THOMAS S. PRICE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

SUZANNA G. BRUGLER, 0000
MARTIN T. CLARK, 0000
WILLIAM H. CLINTON, 0000
STEVE M. CURRY, 0000
JOHN E. GAY, 0000
SUSAN D. HENSON, 0000
MARK C. JONES, 0000
WILLIAM M. KAFKA, 0000
JAMES T. KROHNE, JR., 0000
TAMARA D. LAWRENCE, 0000
ALLISON J. MYRICK, 0000
JOHN P. PERKINS, 0000
ERIK J. REYNOLDS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

ALDRITH L. BAKER, 0000
SADYRAY M. CARINO, 0000
JEREMY L. DUEHRING, 0000
JASON A. HUDSON, 0000
TERRI N. JONES, 0000
CLAUDE M. MCROBERTS, 0000
LAURA J. MURRELL, 0000
MARIA V. NAVARRO, 0000
RAJSHAKER G. REDDY, 0000
HERMAN L. REED, 0000
LOREN S. REINKE, 0000
SHANE D. RICE, 0000
BRENDA M. STENCIL, 0000
DEREK A. VESTAL, 0000
ENNIS E. WILLIAMS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

VICTOR ALLENDE, 0000
DION V. ANDERSON, 0000
DEREK D. BREEDING, 0000
STANLEY J. BURROW, 0000
JAMES S. CARMICHAEL, 0000
JAMES C. CHERRY, 0000
JAMES M. CHISHOLM, 0000
MICHAEL A. CORRIGAN, 0000
HOLLY M. FALCONIERI, 0000
FRANCIS J. GAULT, 0000
RAYMOND K. HANNA, 0000
BRANTON M. JOAQUIN, JR., 0000
SCOTT LEVKULICH, 0000
CHRISTOPHER A. MILLER, 0000
LUIS E. RIVERA, 0000
GREGGORY D. RUSSELL, 0000
KIMBERLY E. SCOTT, 0000
MATTHEW M. SCOTT, 0000
JACINTO TORIBIO, JR., 0000
DARREN B. WRIGHT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

ERIK E. ANDERSON, 0000
SCOTT P. BAILEY, 0000
JOHN L. BEAVER, 0000
OSCAR E. BOWLIN, 0000
REMIL J. CAPILI, 0000
MATTHEW A. CRYER, 0000
RODNEY H. ESTWICK, 0000
STEPHEN E. FISHER, 0000
ANDREW J. GILLESPY, 0000
RICHARD A. JONES, 0000
BRIAN A. KAROSICH, 0000
BRYAN D. MILLER, 0000
DAVID L. MURRAY, 0000
CHRISTOPHER J. PETERSON, 0000
CHARLA W. SCHREIBER, 0000
MATTHEW L. TARDY, 0000
SCOTT A. TRACEY, 0000
DANIEL Y. WANG, 0000
JOHN B. WEBER, 0000
EDWARD G. WEST, 0000
WILLIAM WRIGHT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

LANE C. ASKEW, 0000
ROLAN T. BANGALAN, 0000
JOSHUA J. BURKHOLDER, 0000
ALISSA N. CLAWSON, 0000
RICHARD W. CLEMENT, 0000
JOSE CRUZ, JR., 0000
DANIEL K. FISHER, 0000
TRISHA N. FRANCIS, 0000
MATTHEW L. GHEN, 0000
ANDREW C. GRUBLER, 0000
JOSEPH S. HENDERSON, 0000
JOSEPH F. HERZIG, 0000
PAUL G. HUGHES, 0000
BRIAN E. JONES, 0000
PATRICK E. LANCASTER, 0000
SYLVIA M. LAYNE, 0000
ROBERT P. LEOPOLD, 0000
ALICE Y. LIBURD, 0000
JAMES M. MAHER, 0000
ROBERT D. MATTHIAS, 0000
SIMON R. MCLAREN, 0000
THOMAS R. MERKLE, 0000
DAMIAN N. NGO, 0000
JASON T. NICHOLS, 0000
ROBERT R. PATTO, JR., 0000
DAVID P. PERRY, 0000
PAUL M. SALEVSKI, 0000
ANTHONY T. SAXON, 0000
WILLIAM D. SEEGAR, JR., 0000
DALE H. SHIGEKANE, 0000
KEVIN J. SMITH, 0000
JIMMY J. STORK, 0000
SAMUEL E. TIMMONS, JR., 0000
NATHAN A. WALKER, 0000
SHALALIA I. WESLEY, 0000
RICHARD M. ZAMORA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

SHARON D. BARNES, 0000
ADRIAN Z. BEJAR, 0000
JOSE E. BERRIOS, 0000
CHRISTOPHER M. BIGGS, 0000
SCOTT T. BROWN, 0000
ROBERT C. CADENA, 0000
FRANK R. COWAN IV, 0000
DEMARIUS DAVIS, 0000
JOSEPH G. DELAROSA, 0000
GABRIEL T. DENNIS, 0000
VICTOR R. FIGUEROA, 0000
KALLIE D. FINK, 0000
DAVID C. FLETCHER, 0000
GENE D. GALLAHER, 0000
JARED X. GOODWIN, 0000
MICHAEL K. GREGOIRE, 0000
JARROD L. HANZLIK, 0000
BRIAN A. HARDING, 0000
FREDERICK M. HELSEL III, 0000
AARON L. HILL, 0000
JOHN M. ISHIKAWA, 0000
ROBERT A. LEWIS, 0000
JEFFERY L. LINDHOLM, 0000
DAVID L. MCDEVITT, 0000
ERIN E. MEEHAN, 0000
BRAD D. MELICHAR, 0000
DAVID M. MICHALAK, 0000
SCOTT D. MILNER, 0000
ROBERT A. MOORE, 0000
JOHN J. NELSON, 0000
JOHN C. PHILLIPS, 0000
ANDREW T. REEVES, 0000
MICHAEL S. SALEHI, 0000
CRAIG T. SARAVO, 0000
MARK D. SENSANO, 0000
JOSEPH E. SISSON, 0000
CHAD M. SMITH III, 0000
JEREMY A. SPEER III, 0000
JOSEPH M. SRODA, 0000
EDDIE F. THOMPSON, 0000
MICHAEL A. VITHA, 0000
ROBERT W. WEDGEWORTH, 0000
DEBORAH B. YUSKO, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JAY P. ALDEA, 0000
THOMAS R. ALLEN, 0000
MICHAEL R. ANDERSON, 0000
DAVID J. BERGESEN, 0000
ISMAEL BETANCOURT, 0000
BERNARD BILLINGSLEY, 0000
JOHN A. BOEHNKE, 0000
RICHARD L. BOSWORTH, 0000
RICHARD D. BUNTING, 0000
JESSICA J. BURNS, 0000
JEFFREY P. BUSCHMANN, 0000
DERRICK L. CLARK, 0000
ELIZABETH M. COCCARO, 0000
MATTHEW A. CRUMP, 0000
JASON H. DAVIS, 0000
WADE A. DRAWDY, 0000
WENDY R. DRIVER, 0000
TYLER L. GOAD, 0000
RICHARD D. GOGAL, 0000
RICHARD E. GREEN III, 0000
NIKOLAUS F. GREVEN, 0000
JOHN B. HANSEN, 0000
PENNY L. HARRIS, 0000
JOEL W. HILL, 0000
JAMES C. IRELAND, 0000
COREY M. JACOBS, 0000
ADAM K. JOHNSON, 0000
DAVID C. JONES, 0000
CHRISTOS A. KOUTSOGIANNAKIS, 0000
JEFFERY T. LAUBAUGH, 0000
PAUL M. LEWIS, 0000
DUANE H. LINN, 0000
DANIELLE M. LUKICH, 0000
SCOTT W. MILLS, 0000
MARCELLE L. MOLETT, 0000
HEATHER M. MYERS, 0000
MANUEL A. ORELLANA, 0000
WILLIAM D. RICHMOND, 0000
KELLY M. ROBBINS, 0000
CHARLEESE R. SAMPA, 0000
DAVID J. SANCHEZ, 0000
ROLAND T. SASAKI, 0000
WILLIAM T. SAWHILL, 0000
ANDREW M. SCHIMENTI, 0000
JONATHAN D. SCHROEDER, 0000
KEVIN A. SHEEHAN, 0000
CHAD E. SIMPSON, 0000
ROBERT K. SMITH, 0000
THOMAS A. SMITH, 0000
DAVID L. SOBBA, 0000
MICHAEL P. STEAD, 0000
ANDREW T. STEELE, 0000
MARK A. STELIGA, 0000
BRADLEY J. STOREY, 0000
LEA G. SUTTON, 0000
MICHAEL S. TERKANIAN, 0000
JASON W. VANFOEKEN, 0000
DAVID C. VARONA, 0000
FRANK W. VEGERITA II, 0000
LAWRENCE C. WILCOCK, 0000
JOHNATHAN L. WILLIAMS, 0000
CHRISTOPHER J. WORRET, 0000
ERIC D. WYATT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

DARYL G. ADAMSON, 0000
JEFFREY D. ADKINS, 0000
RICHARD T. ALLEN, 0000
RONNIE E. ARGILLANDER, 0000
PETER AZZOPARDI, 0000
DOUGLAS E. BAILLIE, 0000
TONY C. BAKER, 0000
MICHAEL E. BALL, 0000
MICHAEL J. BEAL, 0000
STEVEN G. BEALL, 0000
DOUGLAS S. BEAN, 0000
MATTHEW P. BEARE, 0000
KEVIN R. BECK, 0000

RAFAEL BELLIARD, 0000
RALPH E. BETTS, 0000
JOHN C. BLACKBURN, 0000
KENNETH E. BLAIR, 0000
SCOTT R. BONSER, 0000
SHAUN J. BOYD, 0000
RONALD J. BRABANT, 0000
CHARLES H. BRAGG, 0000
ROBERT T. BRANDT, 0000
STEPHENS BROUSSARD, 0000
HENRY R. BROWN, 0000
MICHAEL D. BROWN, 0000
RUSSELL D. BROWN, 0000
DUSTIN M. BRUMAGIN, 0000
DAVID A. BRYANT, 0000
PETER J. BURGOS, 0000
REGINAL J. CALLES, 0000
GEORGE F. CHAMPION, JR., 0000
KEVIN P. CHILDRE, 0000
BRUCE C. COLKITT, 0000
KENNETH C. COLLINS II, 0000
MARVIN D. COLLINS, 0000
MICHAEL G. CONNER, 0000
ROGER M. COUTU, JR., 0000
CATHERINE A. COWELL, 0000
PETER CRESCENTI, 0000
DONALD F. CRUMPACKER, 0000
GUS R. CUYLER, JR., 0000
JAMES S. DANCER, 0000
BILLY M. DANIELS, 0000
FREDERICK V. DEHNER, 0000
WILLIAM R. DONNELL, JR., 0000
LAWRENCE D. DOWLING, JR., 0000
ROBERT E. DUCOTE, 0000
DUANE E. DUNIVAN, 0000
JOHN J. DUNNE, 0000
ARTHUR M. DUVALL, 0000
MARTIN J. EBERHARDT, 0000
WILLIAM E. EDENBECK, 0000
STEVEN D. ELIAS, 0000
PAUL S. ELLIS, 0000
DENNIS EVANS, 0000
ALAN D. FEENSTRA, 0000
STEVEN T. FILES, 0000
JOHN J. FORD, 0000
DAVID P. FREDRICKSON, 0000
ARTHUR C. FULLER, 0000
JOHN J. GALLAGHER, JR., 0000
GREGORY G. GALYO, 0000
DONALD W. GIBSON, 0000
KARL G. GILES, 0000
JOSELITO O. GONZALES, 0000
CORY M. GROOM, 0000
RICHARD R. GROVE, JR., 0000
GARY G. GUNLOCK, 0000
PHILLIP A. GUTIERREZ, 0000
ROGER A. HAHN, 0000
JAMES D. HAIR, 0000
WILLIAM P. HARRAH, 0000
DAVID A. HARRIS, 0000
DONALD W. HARTSELL, JR., 0000
KEVIN M. HAYDEN, 0000
OLIVER R. HERION, 0000
JAMES B. HICKS, 0000
NICHOLAS W. HILL, 0000
JAMES E. HOCH, 0000
DAVID G. HOFFMAN, 0000
KENNETH L. HOLLAND, 0000
DOUGLAS E. HOUSER, 0000
BOBBY C. JACKSON, 0000
EDWARD G. JASO, 0000
MARK D. KAES, 0000
MARK J. KERN, 0000
NORMAN G. KOSTUCK, JR., 0000
LURA L. LARSEN, 0000
WILLIAM J. LAURENT, 0000
STEVEN P. LEARO, 0000
CHRISTOPHER LEDLOW, 0000
EDWARD M. LEE, 0000
RANDALL G. LEE, 0000
JEFFREY LETSINGER, 0000
DAVID N. LEWIS, 0000
GERALD D. LEWIS, 0000
TAMI M. LINDQUIST, 0000
DAVID D. LITTLE, 0000
THOMAS J. LONGINO, 0000
ALAN G. MACNEIL, 0000
LAURA L. MALLORY, 0000
DENNIS S. MARION, 0000
PAUL J. MARTIN, JR., 0000
WANDA D. MARTIN, 0000
ANTHONY J. MATA, 0000
GREGORY L. MCGILL, 0000
BRADLEY H. MCGUIRE, 0000
TODD A. MCINTYRE, 0000
DANIEL F. MCKIM, 0000
TIMOTHY J. MEAD, 0000
LEO C. MELODY, 0000
ROBERT E. MERRILL, 0000
JACK D. MILLER, 0000
ROCCO F. MINGIONE, JR., 0000
OLIVER C. MINIMO, 0000
DENNIS MOJICA, 0000
KEVIN A. MORGAN, 0000
DENIS E. MURPHY, 0000
STEPHEN J. NADOLNY, 0000
SCOTT A. NOE, 0000
BRIAN S. NORRIS, 0000
RODNEY J. NORTON, 0000
BRIAN A. NOVAK, 0000
MARK A. NOWALK, 0000
ANTONIO M. OCAMPO, 0000
JOHN A. OMAN, 0000
JOSE W. OTERO, 0000
RAYMOND F. PARIS, 0000
GREG M. PASSONS, 0000
DAVID C. PAYNE, 0000
ANTHONY M. PECORARO, 0000
PAUL H. PLATTSMIER, 0000
BARRY A. POLK, 0000
GEORGE A. PORTER, 0000
ROBERT L. PROSSER, 0000
DAVID T. PURKISS, 0000
RORY S. REAGAN, 0000
SHAWN J. REAMS, 0000
JAMES C. REEVES, 0000
STEVEN T. REITH, 0000
JOHN M. REYNOLDS, 0000
MICHAEL P. RILEY, 0000
TODD D. RILEY, 0000
DAVID P. ROBERTS, 0000
JAMES M. ROBINSON, 0000
DEAN R. RODRIGUEZ, 0000
VICTOR H. ROMANO, 0000
CHRISTOPHER G. ROSS, 0000
LEANDER J. SACKEY, 0000
DAVID W. SALAK, 0000
KENNETH B. SANCHEZ, 0000
WESLEY S. SANDERS, 0000
ROBERT P. SAUNDERS, JR., 0000
JOHN L. SCALES, 0000
RONALD A. SCHNEIDER, 0000
THOMAS R. SCHROCK, 0000
JACKIE A. SCHWEITZER, 0000
MICHAEL K. SEATON, 0000
LAWRENCE A. SECHTMAN, 0000
MARTIN D. SHARPE, 0000
SCOTT E. SHEA, 0000
JEFFREY R. SHIPMAN, 0000
GARY K. SMITH, 0000
WAYNE D. SMITH, 0000
STEVEN L. SOLES, 0000
TIMOTHY C. SPENCE, 0000
PAUL B. SPRACKLEN, 0000
WILLIAM C. STAMEY, 0000
VINCENT T. STANLEY, 0000
MARK A. STONE, 0000
FREDDIE D. STRAIN, 0000
MALCOLM L. STRUTCHEN, 0000
WENDY M. SUESS, 0000
ROBIN L. SUNTHEIMER, 0000
PATRICK H. SUTTON, 0000
QUINTIN G. TAN, 0000
REYNALDO T. TANAP, 0000
STEVEN C. TERREAULT, 0000
KIMBALL B. TERRES, 0000
ANTHONY E. THARPE, 0000
CHARLES THOMAS, JR., 0000
MICHAEL L. THOMPSON, 0000
ROBERT E. THOMPSON, 0000
KEITH A. TUKES, 0000
JOHNNY L. TURNER, 0000
EDWARD TWIGG III, 0000
LAWRENCE W. UPCHURCH, 0000
JOEL A. VARGAS, 0000
JOSEPH A. VARONE, 0000
GREGORY A. VERLINDE, 0000
ALEC C. VILLEGAS, 0000
TIMOTHY VONDERHARR, 0000
SCOTT H. WADE, 0000
DAVID L. WALKER, 0000
MATTHEW W. WALSH, 0000
STEVEN T. WALTNER, 0000
DAVID G. WATSON, 0000
TODD A. WEAVER, 0000
THOMAS M. WEISHAR, 0000
SELVIN A. WHITE, 0000
WILLIAM H. WHITE, 0000
DWAINE C. WHITHAM, 0000
EDWARD E. WILBUR II, 0000
WILLIAM J. WILBURN, 0000
CHRISTOPHER G. WILLIAMS, 0000
JAMES M. WINFREY, 0000
FRANKLIN C. WOLFF, 0000
EARL A. WOOTEN, 0000
TONI Y. WRIGHT, 0000
ALEJANDRO D. YANZA, 0000
MICHAEL D. YELANJIAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JEFFREY J. ABBADINI, 0000
REBECCA M. D. ADAMS, 0000
RYAN P. AHLER, 0000
JAMES T. AIKIN II, 0000
EVERETT M. ALCORN, JR., 0000
STEPHEN W. ALDRIDGE, 0000
CHRISTOPHER T. ALEXANDER, 0000
TIMOTHY J. ALIM, 0000
LAUREN B. ALLEN, 0000
ERNESTO R. ALMONTE, 0000
GERVY J. ALOTA, 0000
GALEN R. ALSOP, 0000
BRIAN S. AMADOR, 0000
PETER AMENDOLARE, 0000
DAVID W. ANDERSON, 0000
ERIC W. ANDERSON, 0000
JEFFREY A. ANDERSON, 0000
JUSTIN W. ANDERSON, 0000
SCOTT T. ANDERSON, 0000
EDWARD A. ANGELINAS, 0000
MARK A. ANGELO, 0000
JASON L. ARGANBRIGHT, 0000
MATTHEW T. ARMSTRONG, 0000
JOHN B. ARNAUD, 0000
EDWARD B. ARNOLD, 0000
CHRISTOPHER W. ARTIS, 0000
MARK S. ASAHARA, 0000
AARON J. ASCHENBRENNER, 0000
JARED T. ASMAN, 0000
ANTHONY C. ASP, 0000
EPI ATENCIO, 0000
KENNETH M. ATHANS, 0000
MICHAEL L. ATWELL, 0000
STEPHEN A. AUDELO, 0000
SPENCER P. AUSTIN, 0000
GILBERT AYAN, 0000
BRIAN L. BABIN, 0000
JOHN A. BACHMORE, 0000
SHELBY Y. BAECKER, 0000
JOSEPH A. BAGGETT, 0000
CASEY B. BAKER, 0000
EDGAR M. BAKER, 0000
JEFFREY D. BAKER, 0000
ZATHAN S. BAKER, 0000
ANDREW J. BALLINGER, 0000
ROBERTO A. BARBOSA, 0000
ADAM W. BARNES, 0000
CHRISTOPHER R. BARNES, 0000
RAYMOND F. BARNES, JR., 0000
RYAN C. BARNES, 0000
THOMAS A. BAUMSTARK, 0000
JONATHAN R. BEAR, 0000
QUINCY E. BEASLEY, 0000
WILLIAM M. BEATY, 0000
JOHN R. BECKER, 0000
THOMAS A. BELL, 0000
NOAH S. BELLRINGER, 0000
WILLIAM A. BEST, 0000
RYAN K. BETTON, 0000
MANUEL A. BIASCOECHEA, 0000
JOSHUA D. BIGHAM, 0000
BRYAN J. BILLINGTON, 0000
BRIAN A. BINDER, 0000
BLAINE S. BITTERMAN, 0000
NATHAN R. BITZ, 0000
R. W. BLIZZARD, 0000
THOMAS T. BODINE, 0000
ERIK BODISCOMASSINK, 0000
TIMOTHY C. BOEHME, 0000
MATTHEW A. BOGUE, 0000
EUGENE N. BOLTON, 0000
CHARLES J. BORGES, 0000
MICHAEL P. BORRELLI, 0000
PATRICK W. BOSSERMAN, 0000
DAVID S. BOUGH, 0000
EDWIN W. BOUNDS, 0000
SILAS L. BOUYER II, 0000
COLIN K. BOYNTON, 0000
JARED S. BRADEL, 0000
BRIAN A. BRADFORD, 0000
CHARLES B. BRADY III, 0000
DEREK BRADY, 0000
JAMES S. BRADY, 0000
JASON E. BRAGG, 0000
PAUL S. BRANTUAS, 0000
SAMUEL P. BRASFIELD III, 0000
ANTHONY W. BRINKLEY, 0000
CYNTHIA J. BRITTINGHAM, 0000
DANIEL E. BROADHURST, 0000
JOSEPH M. BROMLEY, 0000
DAVID P. BROOKS, 0000
MARK J. BROPHY, 0000
RANDALL D. BROUSSARD, 0000
CHRISTOPHER A. BROWN, 0000
EUGENE L. BROWN, 0000
LEE C. BROWN, 0000
NATHANIEL H. BROWN, 0000
ELAINE A. BRUNELLE, 0000
SCOTT P. BRUNSON, 0000
MATHEW C. BRYANT, 0000
JACOB J. BRYNJELSEN, 0000
JASON A. BUCKLEY, 0000
TIMOTHY J. BUCKLEY, 0000
HOMER E. BUEN, 0000
DOUGLAS J. BURFIELD, 0000
JAY A. BURGESS, 0000
JASON F. BURK, 0000
MICHAEL J. BURKS, 0000
ROBERT S. BURNS, 0000
PATRICK BURRUS, 0000
JOHN R. BUSH, 0000
MILTON BUTLER III, 0000
KIMBERLY D. BYNUM, 0000
RUSSELL J. CALDWELL, 0000
SHANNON L. CALLAHAN, 0000
WILLIAM CALLAHAN, 0000
DAVID R. CAMBURN, 0000
ROBERT A. CAMPBELL, 0000
BURT J. CANFIELD, 0000
TIMOTHY D. CANNADA, 0000
CHRISTOPHER L. CANNIFF, 0000
MARCOS D. CANTU, 0000
DARREL J. CAPO, 0000
JOEL M. CAPONIGRO, 0000
ROBERT L. CAPRARO, 0000
PAOLO CARCAVALLO, JR., 0000
NICK A. CARDENAS, 0000
KEVIN L. CARLISLE, 0000
JESSE E. CARPENTER, 0000
JAMES M. CARRIERE, 0000
JAMES N. CARROLL, 0000
TODD D. CARROLL, 0000
CHRISTOPHER D. CARTER, 0000
MARK A. CARTER, 0000
THOMAS B. CARTER, 0000
JAMES K. CARVER, 0000
DAVID J. CASTEEL, 0000
CAREY F. CASTELEIN, 0000
JOHN D. CASTILLO, 0000
GABRIEL B. CAVAZOS, 0000
BRIAN J. CEPAITIS, 0000
BLAKE L. CHANEY, 0000
DEWON M. CHANEY, 0000
JONATHAN S. CHANNELL, 0000
MICHAEL R. CHAPARRO, 0000
MATTHEW E. CHAPMAN, 0000
CHRISTOPHER CHARLEYSALE, 0000

MATTHEW R. CHASTEEN, 0000
PETER J. CHAVERIAT, 0000
TONY CHAVEZ, 0000
ADAM G. CHEATHAM, 0000
THOMAS G. CHEKOURAS, 0000
SCOTT M. CHIEREPKO, 0000
JARED B. CHIUROURMAN, 0000
CHARLES M. CHOATE III, 0000
KENNETH Y. CHONG, 0000
MATTHEW W. CIESLUKOWSKI, 0000
MICHAEL F. CLAPP, 0000
GILBERT E. CLARK, JR., 0000
TIMOTHY M. CLARK, 0000
PAUL D. CLARKE, 0000
ADAM C. CLAYBROOK, 0000
MARK A. CLOSE, 0000
CHRISTOPHER A. COCHRAN, 0000
DANIEL D. COCHRAN, 0000
DAVID J. COE, 0000
JOHN D. COKER, 0000
ERIC D. COLE, 0000
PATRICK E. COLE, 0000
BENJAMIN D. CONE, 0000
BRIAN D. CONWAY, 0000
GREGORY R. COOKE, 0000
NAKIA M. COOPER, 0000
ALAN M. COPELAND, 0000
JOHN C. CORRELL, 0000
JOSEPH W. CORTOPASSI, 0000
BRENT J. COTTON, 0000
ADAN J. COVARRUBIAS, 0000
SHAWN M. COWAN, 0000
DAVID S. COX, 0000
TIMOTHY G. CRAIG, 0000
BRADFORD P. CRAIN, 0000
JASON R. CRAIN, 0000
CLARKE S. CRAMER, 0000
RUSSELL N. CRAWFORD, JR., 0000
CURTIS W. CRONIN, 0000
MICHAEL C. CROUSE, 0000
CURTIS W. CRUTHIRDS, 0000
MATTHEW D. CULP, 0000
BRIAN G. CUNNINGHAM, 0000
CHRISTOPHER J. DAHL, 0000
CHARLES E. DALE III, 0000
CHRISTINA L. DALMAU, 0000
ROBERT B. DANBERG, JR., 0000
SCOTT E. DANTZSCHER, 0000
DWIGHT M. DAVIS, 0000
MARC E. DAVIS, 0000
TIMOTHY P. DAVIS II, 0000
DANA A. DECOSTER, 0000
SARAH H. DEGROOT, 0000
BRIAN S. DEJARNETT, 0000
ADAM C. DEJESUS, 0000
CHRISTOPHER H. DELGADO, 0000
WILLIAM G. DELMAR, 0000
MARC R. DELTETE, 0000
RORKE T. DENVER, 0000
KENDRA M. DEPPE, 0000
MICHAEL P. DESMOND, 0000
DOUGLAS D. DIEHL, 0000
TIMOTHY J. DIERKS, 0000
DARYL M. DODD, 0000
CHRISTOPHER J. DOMENCIC, 0000
MARK D. DOMENICO, 0000
JARROD D. DONALDSON, 0000
CHRISTOPHER D. DOTSON, 0000
KENNETH S. DOUGLAS, 0000
CLINTON L. DOWNING, 0000
MATTHEW E. DOYLE, 0000
MARC A. DRAGE, 0000
BRIAN M. DRECHSLER, 0000
JOSEPH M. DROLL, 0000
DERRICK A. DUDASH, 0000
DARREN T. DUGAN, 0000
DANIEL P. DUHAN, 0000
ROBERT A. DULIN, 0000
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DAVID P. DURKIN, 0000
PHILLIP A. DYE, 0000
JENNIFER L. EATON, 0000
MATTHEW J. EBERHARDT, 0000
DAVID L. EDGERTON, 0000
JAMES A. EDMONDS, 0000
MICHAEL A. EDWARDS, 0000
TREVOR D. ELLIS, 0000
SCOTT H. ELROD, 0000
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BRIAN C. EMME, 0000
JASON T. ERICKSON, 0000
JOHN D. ERICKSON, 0000
RICARDO A. ESCALANTE, 0000
MICHAEL A. ESPARZA, 0000
THEODORE E. ESSENFELD, 0000
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ROY C. EVANS, 0000
JOHN EVEGES III, 0000
RANDALL E. EVERLY, 0000
ANTHONY FACCHINELLO, 0000
LOUIS A. FAIELLA, 0000
AUSTIN D. FALL, 0000
WILLIAM P. FALLON, 0000
MICHEL C. FALZONE, 0000
CHRISTOPHER M. FARRICKER, 0000
RYAN M. FARRIS, 0000
ANTHONY V. FARRUGIA, 0000
RICK A. FEESE, 0000
CHAD A. FELLA, 0000
PAUL J. FENECH, 0000
SEAN M. FERGUSON, 0000
PATRICE J. P. FERNANDES, 0000
NICHOLAS P. FERRATELLA, JR., 0000
ARJUNA FIELDS, 0000
LUIS M. FIGUEROA, 0000
JOSEPH M. FIKSMAN, 0000
MICHAEL B. FINN, 0000
JOHN K. FLEMING, 0000
EDWARD K. FLOYD, 0000
STEVEN W. FOLEY, 0000
BENJAMIN J. FOLKERS, JR., 0000
JENNIFER L. FORBUS, 0000
TONREY M. FORD, 0000
MEGHAN B. FOREHAND, 0000
DAVID S. FORMAN, 0000
MARK T. FORSTNER, 0000
STEPHEN C. FORTMANN, 0000
VINCENT A. FORTSON, 0000
HANS A. FOSSER, 0000
JASON P. FOX, 0000
WILLIAM D. FRANCIS, JR., 0000
SHAWN E. FRAZIER, 0000
MARK B. FREITAG, 0000
BRIAN D. FREMMING, 0000
KENNETH J. FROBERG, 0000
JOHN T. FRYE, 0000
JOHN D. GAINEY IV, 0000
RUBEN GALVAN, 0000
NEAL T. GARBETT, 0000
MICHAEL J. GARCIA, 0000
ANTHONY M. GARRETT, 0000
CHRISTOPHER W. GAVIN, 0000
ALBERT H. GEIS, JR., 0000
ROBERT J. GELINAS, 0000
ANDREW D. GEPHART, 0000
CHRISTOPHER M. GIACOMARO, 0000
CHRISTOPHER M. GIGGI, 0000
ANDREW H. GILBERT, 0000
HORACE E. GILCHRIST II, 0000
CHRISTOPHER S. GILMORE, 0000
ADAM M. GOLDBERG, 0000
TARA S. GOLDEN, 0000
CHRISTIAN P. GOODMAN, 0000
DEMIAN C. GOUGH, 0000
WILLIAM N. GRANTHAM, 0000
DAVID C. GRATTAN, 0000
BRIAN W. GRAVES, 0000
DOUGLAS T. GRAY, 0000
JOSEPH M. GREENSLADE, 0000
ANDREW J. GREENWOOD, 0000
ROBERT J. GRIFFITH, 0000
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JASON P. GROWER, 0000
BRIAN C. GUISE, 0000
LUCAS B. GUNNELS, 0000
KAITAN P. GUPTA, 0000
JASON M. GUSTIN, 0000
BRIAN J. HAGGERTY, 0000
DONALD G. HALEY, 0000
ERIK W. HALL, 0000
JOHN J. HALL, 0000
MICHAEL D. HALL, 0000
SHAWN D. HALL, 0000
PETER F. HALVORSEN, 0000
JOHN T. HAMITER, JR., 0000
EDMUND J. HANDLEY, 0000
DAVID J. HANEY, 0000
MARK W. HANEY, 0000
RICHARD T. HANNA, JR., 0000
THOMAS S. HANRAHAN, 0000
PETER L. HANSEN, 0000
GARY A. HARRINGTON II, 0000
CHRISTOPHER W. HARRIS, 0000
DAVID F. HARRIS, 0000
ROBERT E. HART, JR., 0000
JUSTIN L. HARTS, 0000
MICHAEL P. HARVEY II, 0000
KAZUNORI S. HASHIGAMI, 0000
HEIDI D. HASKINS, 0000
AMANDA A. M. HAWKINS, 0000
CHRISTOPHER N. HAYTER, 0000
GARETH J. HEALY, 0000
THOMAS H. HEALY, 0000
ROBERT A. HEELY, JR., 0000
TRACY L. HEGGLUND, 0000
KURT A. HELGEMOE, 0000
KEITH A. HENDERSON, 0000
NATALIA C. HENRIQUEZ, 0000
TIMOTHY S. HENRY, 0000
NORMAN K. HEPLER, JR., 0000
ALEJANDRO M. HERNANDEZ, 0000
EDWARD A. HERTY IV, 0000
DAVID L. HICKEY, 0000
JEFFREY W. HIGHERS, 0000
CHRISTOPHER J. HIGHLEY, 0000
RYAN D. HILL, 0000
EDWARD A. HOAK, 0000
MARK T. HOBDY, 0000
JEFFREY E. HOBERG, 0000
ROBERT A. HOCHSTEDLER, 0000
ANDREW A. HOEKSTRA, 0000
KEVIN J. HOFFMAN, 0000
BRIAN L. HOLMES, 0000
DAVID C. HOLMES, 0000
PASCAL W. HOLMES, 0000
RONALD M. HOLMES, 0000
TODD H. HOMAN, 0000
STEVEN N. HOOD, 0000
CHRISTOPHER T. HORGAN, 0000
KYLE M. HORLACHER, 0000
KARL G. HORNER III, 0000
BRAD D. HORNING, 0000
PATRICK W. HOURIGAN, 0000
MICHAEL P. HOWE, 0000
JAMES B. HOWELL, 0000
HOLLY A. HOXSIE, 0000
JAMES M. HOYSRADT II, 0000
DAVID S. HUGHES, 0000
GEOFFREY D. HUGHES, 0000
MARK A. HUGHES, 0000
SCOTT H. HULETT, 0000
CHRISTOPHER S. HULITT, 0000
ROBERT S. HUSCHAK, 0000
ABIGAIL A. HUTCHINS, 0000
JASON HYND, 0000
JEFFREY J. IMMEL, 0000
RICHARD J. ISAAK, 0000
MICHAEL H. JACKSON, 0000
ROGER S. JACOBS, 0000
TODD A. JACOBS, 0000
CHARLES J. JAMESON, 0000
JONATHAN A. JECK, 0000
BRUCE L. JENNINGS, 0000
KENNETH M. JENSEN, 0000
JAMES P. JEROME, 0000
KENNETH L. JIPPING, 0000
WILLIAM A. JOHANSSON, 0000
CORY P. JOHNSON, 0000
MARK A. JOHNSON, 0000
MICHAEL R. JOHNSON, 0000
SHAWN E. JOHNSON, 0000
GARTH A. JOHNSTON, 0000
RUSSELL W. JOHNSTON, 0000
HOWARD L. JONES, 0000
JAMES R. JONES, 0000
STEVEN C. JONES, 0000
MICHAEL D. KAMPFE, 0000
ALLAN B. KARLSON, 0000
PETER H. KARVOUNIS, 0000
BRANDON S. KASER, 0000
KEITH C. KAUFFMAN, 0000
REGINA P. F. KAUFFMAN, 0000
PAUL J. KAYLOR, 0000
DANIEL J. KEELER, 0000
JOSHUA L. KEEVER, 0000
PATRICK A. KELLER, 0000
KENNETH M. KERR, 0000
STEPHEN J. KERR, 0000
JASON T. KETELSEN, 0000
DAVID K. KILLIAN, 0000
ROBERT B. KIMNACH III, 0000
TERENCE K. KING, 0000
MICHAEL J. KINSELLA, 0000
JASON D. KIPP, 0000
JEFFREY A. KJENAAS, 0000
JOSEPH P. KLAPATCH, 0000
THEODORE B. KLEINBERG, 0000
KEN J. KLEINSCHNITTGER, 0000
WILLIAM C. KLUTTZ, 0000
THOMAS J. KNEALE, JR., 0000
DAVID V. KNEELAND, 0000
SEAN P. KNIGHT, 0000
MELVIN L. KNOX III, 0000
RAYMOND T. KOEMP, 0000
JEFFREY R. KORZATKOWSKI, 0000
COLLEEN M. KOSLOSKI, 0000
SANDRA L. KOSLOSKI, 0000
CHRISTOPHER J. KREIER, 0000
ERIC C. KRUEGER, 0000
WILLIAM W. KURTZ, JR., 0000
KYLE D. LACEY, 0000
TODD I. LADWIG, 0000
WILLIAM LAMPING III, 0000
JEREMY M. LANEY, 0000
PAULA A. LANGILLE, 0000
SHANE A. LANSFORD, 0000
THOMAS E. LANSLEY, 0000
BRIAN LARMON, 0000
SCOTT W. LARSON, 0000
RYAN E. LAWRENZ, 0000
LAY C. LAY, 0000
DAVID N. LEATHER, 0000
CHRISTOPHER LEE, 0000
DUSTIN E. LEE, 0000
PAUL LEE, 0000
JEREMY L. LEIBY, 0000
DAVID C. LEIKER, 0000
DANA M. LEINBERGER, 0000
CHARLES LEONARD, 0000
KENT M. LEONARD, 0000
JOSEPH L. LEPPO, 0000
SHANE M. LESTEBERG, 0000
ANDRE B. LESTER, 0000
BRETT M. LEVANDER, 0000
JOSEPH M. LEVY, 0000
BENJAMIN M. LIBBY, 0000
KENNETH R. LIEBERMAN, 0000
MATTHEW E. LIGON, 0000
RYAN J. LILLEY, 0000
HENRY H. LIN, 0000
CHRISTOPHER C. LINDBERG, 0000
ERIC D. LINDGREN, 0000
CHAD J. LIVINGSTON, 0000
MICHAEL S. LLENZA, 0000
JAMES P. LOMAX, 0000
JOHN M. LONG, 0000
TIMOTHY J. LONG, 0000
DEWEY A. LOPES, 0000
CHRISTOPHER J. LORD, 0000
CHRISTOPHER A. LOVELACE, 0000
ERIC H. LULL, 0000
ROBERT D. LUSK, 0000
WILLIAM T. LUTGEN, JR., 0000
JOHN W. LYNCH, 0000
JOSEPH K. LYON, 0000
MATTHEW R. MAASDAM, 0000
BRIAN K. MABRY, 0000
WALTER C. MAINOR, 0000
GEORGE S. MAJOR, 0000
GREGORY P. MALANDRINO, 0000
JAMES R. MALONE, 0000
SHAWN M. MALONE, 0000
BRIAN M. MALONEY, 0000
CARINA E. MALONEY, 0000
MATTHEW J. MALONEY, 0000
DENNIS N. MALZACHER, JR., 0000
JODY W. MANDEVILLE, 0000
RICHARD MANGLONA, 0000
SHANE T. MARCHESI, 0000
JEREMY J. MARKIN, 0000
CHRISTOPHER L. MARKS, 0000

CHARLES P. MARRONE, 0000
HARRY L. MARSH, 0000
MICHAEL J. MARTHALER, 0000
JOSHUA G. MARTIN, 0000
SHANNON A. MARTIN, 0000
BRIAN A. MARTINEZ, 0000
MIGUEL R. MARTINEZ, 0000
JONATHAN A. MARVELL, 0000
CHRISTOPHER E. MARVIN, 0000
BENJAMIN J. MASOG, 0000
WALTER B. MASSENBURG, JR., 0000
GABRIEL A. MAULDIN, 0000
MITCHELL S. MCCALLISTER, 0000
GILL H. MCCARTHY, 0000
MILTON B. MCCAULEY, 0000
CARLTON J. MCCLAIN, 0000
CHRISTOPHER MCCONNAUGHAY, 0000
RYAN D. MCCRILLIS, 0000
GRADY S. MCDONALD, 0000
JAMES D. MCDONALD, 0000
JONATHAN A. MCELLROY, 0000
KALAN M. MCEUEN, 0000
DANIEL B. MCFALL, 0000
JOHN E. MCGEE III, 0000
KEVIN T. MCGEE, 0000
ROBERT A. MCGILL, 0000
SHANTI H. MCGOVERN, 0000
AARON N. MCGOWAN, 0000
THOMAS S. MCGOWAN, 0000
JEFFREY M. MCGRADY, 0000
MATTHEW S. MCGRAW, 0000
ROBERT A. MCGREGOR, 0000
BRIAN W. MCGUIRK, 0000
AMY M. MCINNIS, 0000
JAMES F. MCKENNA, 0000
SIMON C. MCKEON, 0000
WILLIAM M. MCKEOWN, 0000
ANDREW R. MCLEAN, 0000
MICAJAH T. MCLENDON III, 0000
ERIC L. MCMULLEN, 0000
ANDREW J. MCNIVEN, 0000
MICHAEL A. MCPHAIL, 0000
RALPH L. MCQUEEN III, 0000
DOUGLAS K. MEAGHER, 0000
JAVIER MEDINAMONTALVO, 0000
HOWARD V. MEEHAN, 0000
JOSHUA M. MENZEL, 0000
DENNIS METZ, 0000
ROBERT D. MEYER, JR., 0000
WILLIAM A. MEYERS, JR., 0000
SEAN J. MICHAELS, 0000
STEVEN F. MILGAZO, 0000
GREGORY J. MILICIC, 0000
ALAN D. MILLER, 0000
GARRETT H. MILLER, 0000
MAX F. MILLER, 0000
ZACHARY J. MILLER, 0000
VERONICA G. MILLIGAN, 0000
STEPHEN J. MINIHANE, 0000
ANDREW B. MIROFF, 0000
CHRISTOPHER J. MITCHELL, 0000
MICHAEL S. MITCHELL, 0000
STEPHEN T. MITCHELL, JR., 0000
JAMES M. MOBERLY, 0000
DANIEL R. MOLL, 0000
DENNIS C. MONAGLE, 0000
KENNETH E. MONFORE III, 0000
DANIEL J. MONLUX, 0000
DAVID P. MOORE, 0000
KEVIN F. MOORE, 0000
ANTHONY MORALES, 0000
MICHAEL M. MORGAN, 0000
WILLIAM C. MORGAN, 0000
CHRISTOPHER M. MORINELLI, 0000
JAMES M. MORTON III, 0000
STEVEN S. MOSS, 0000
ERIC N. MOYER, 0000
CHRISTOPHER L. MOYLAN, 0000
ARTHUR A. MUELLER III, 0000
JUAN F. MULLEN, 0000
DARRIN R. MULLINS, 0000
PAUL B. MULLINS, JR., 0000
JORGE MUNIZ, JR., 0000
BRANDON L. MURRAY, 0000
ROBERT D. MYERS, 0000
STACY L. MYERS, 0000
JACQUELINE A. NATTER, 0000
DUANE E. NEAL, 0000
ALAN A. NELSON, 0000
WOODROW M. NESBITT, JR., 0000
MICHAEL G. NEWTON, 0000
MICHAEL D. NORDEEN, 0000
WENDY K. NOWAK, 0000
EDUARDO E. NUNEZ, 0000
HEATHER L. ODONNELL, 0000
THOMAS M. OGDEN, 0000
JACK B. ONEILL II, 0000
MICHAEL P. ONEILL, 0000
DANIEL V. ORNELAS, 0000
MATTHEW H. ORT, 0000
ANDREW W. OSBORNE, 0000
BRETT R. OSTER, 0000
TRAVIS R. OVERSTREET, 0000
CHRISTOPHER J. PACENTRILLI, 0000
JUAN C. PALLARES, 0000
CHRISTOPHER A. PAPAIOANU, 0000
GREGORY M. PARADIS, 0000
PHILIP L. PARMLEY, 0000
JOHN G. PARQUETTE, 0000
JACOB R. PARSONS, 0000
KURT R. PARSONS, 0000
CHAD A. PARVIN, 0000
WAYNE A. PATRAS, 0000
JASON P. PATTERSON, 0000
JOHN C. PATTERSON, 0000
JOHN E. PATTERSON, 0000
MICHAEL S. PAYNE, 0000
RICHARD D. PAYNE, 0000
STEVEN M. PEACE, 0000
DAVID L. PEDERSEN, 0000
BRIAN E. PEDROTTY, 0000
DOUGLAS J. PEGHER, 0000
BRIAN J. PELLETIER, 0000
CLAYTON M. PENDERGRASS, 0000
CHRISTOPHER D. PEPPEL, 0000
NOLAN K. PERRY, JR., 0000
ERICK A. PETERSON, 0000
JOSHUA H. PETERSON, 0000
EDWIN L. PHILLIPS, 0000
MARC A. PICARD, 0000
SCOTT A. PICHETTE, 0000
KENNETH S. PICKARD, 0000
NICHOLAS A. PINSON, 0000
LEIGHTON J. PITRE, 0000
JASON C. PITTMAN, 0000
MATTHEW R. PLAISIER, 0000
MATTHEW V. POLZIN, 0000
JASON R. POMPONIO, 0000
DALLAS L. POPE, 0000
JOHN D. PORADO, 0000
MICHAEL M. POSEY, 0000
MARK E. POSTILL, 0000
JASON S. PREISS, 0000
DANIEL E. PRICE, JR., 0000
CHARLES T. PRIM, 0000
ROBERT S. PUDNEY IV, 0000
MICHAEL T. PUFFER, 0000
THEODORE M. O. QUIDEM, 0000
ROBERT L. RADAK, JR., 0000
JOSEPH A. RAEZ, 0000
ROBERT E. RALPHS, 0000
VICTORIO A. RAMIREZ, 0000
DOUGLAS E. RAMSEY, 0000
MICHAEL RAMSEY, 0000
DANIEL C. RAPHAEL, 0000
DONALD V. RAUCH, 0000
KELLY J. REAVY, 0000
MICHAEL E. REED, 0000
DANIEL J. REISS, 0000
JAMES REYNOLDS, 0000
BRIAN A. RIBOTA, 0000
DARREN E. RICE, 0000
KEVIN S. RICE, 0000
ROBERT R. RICHARDSON, 0000
JOHN P. RICHERSON, 0000
DAVID E. RIDINGS, 0000
CHRISTOPHER J. RIERSON, 0000
JACK C. RIGGINS, 0000
RICHARD A. RIISMA, 0000
JOHN J. RIOS, 0000
DONOVAN C. RIVERA, 0000
JUAN C. RIVERA, 0000
KENNETH C. ROBB, 0000
KEVIN E. ROBB, 0000
DARYL ROBBIN, 0000
REMY P. ROBERT, 0000
STEVEN W. ROBERTS, 0000
MARTIN L. ROBERTSON, 0000
JESSE W. ROBINSON, JR., 0000
JOEL RODRIGUEZ, 0000
NOEL RODRIGUEZ, 0000
DARREN C. ROE, 0000
HENRY M. ROENKE IV, 0000
SCOTT D. ROSE, 0000
SCOTT A. ROSETTI, 0000
PAUL E. ROTSCH, 0000
GREGORY L. ROWLAND, 0000
KEITH M. ROXO, 0000
COLEMAN V. RUIZ, JR., 0000
MALCOLM J. RUMPH, 0000
KENNETH R. RUSSELL, 0000
LUKE A. RUSSELL, 0000
MATTHEW D. RUSSELL, 0000
GARY A. RYALS, 0000
CHRISTOPHER J. SACRA, 0000
ERIC M. SAGER, 0000
DAVID L. SAGUNSKY, 0000
PETER J. SALVAGGIO, JR., 0000
ALFREDO J. SANCHEZ, 0000
JOSE A. SANCHEZ, 0000
KARL S. SANDER, 0000
GREGG S. SANDERS, 0000
BRIAN D. SANDERSON, 0000
TODD A. SANTALA, 0000
SERGIO T. SANTILLAN, 0000
BRIAN M. SANTIROSA, 0000
JEFFERSON P. SARGENT, 0000
KENNETH D. SAUNDERS, 0000
MICHAEL J. SAVARESE, 0000
ROBERT W. SAVERING, 0000
BRIAN J. SAWICKI, 0000
BRIAN L. SCARAMUCCI, 0000
MATTHEW D. SCARLETT, 0000
WILLIAM A. SCHENCK III, 0000
JOHN M. SCHILLER, 0000
RYAN C. SCHLEICHER, 0000
LUKE D. SCHMIDT, 0000
JACOB D. SCHMITTER, 0000
DUSTIN J. SCHOUTEN, 0000
ADAM T. SCHULTZ, 0000
BRYAN L. SCHULTZ, 0000
CHAD C. SCHUMACHER, 0000
ANTHONY J. SCHWARZ, 0000
STEPHEN P. SCHWEDHELM, 0000
DAVID A. SCHWIND, 0000
WINSTON E. SCOTT II, 0000
DEAN G. SEARS, 0000
JOSEPH M. SEEBURGER, 0000
SHAUN S. SERVAES, 0000
GENE G. SEVERTSON II, 0000
CHRISTIAN M. SEWELL, 0000
MATTHEW S. SHAFFER, 0000
CLAYTON G. SHANE, 0000
ISAAC SHAREEF, 0000
TERRENCE M. SHASHATY, 0000
SOJOURN D. SHELTON, 0000
KEITH J. SHERER, 0000
COLBY W. SHERWOOD, 0000
JAMES E. SHIPMAN, 0000
JOSEPH B. SHIPP, 0000
AARON F. SHOEMAKER, 0000
PETER M. SHOEMAKER, 0000
HOLLY B. SHOGER, 0000
AARON P. SHULER, 0000
ANDREW J. SHULMAN, 0000
DAVID A. SIGLER, 0000
BENJAMIN C. SIGURDSON, 0000
RICHARD A. SILVA, 0000
DAVID K. SILVERMAN, 0000
SCOTT A. SIM, 0000
BRIAN G. SIMS, 0000
TODD M. SINCLAIR, 0000
DAVID W. SKAROSI, 0000
BRIAN L. SKUBIN, 0000
SEAN L. SLAPPY, 0000
KENDALL SLATTON, 0000
ANDRIA L. SLOUGH, 0000
ALBERT SMITH, 0000
ANTHONY F. SMITH, 0000
CHARLES A. SMITH, JR., 0000
CHRISTOPHER E. SMITH, 0000
CHRISTOPHER T. SMITH, 0000
JOSHUA A. SMITH, 0000
KEEVIN L. SMITH, 0000
KENT D. SMITH, 0000
WARREN D. SMITH, 0000
JOSEPH W. SMOTHERMAN, 0000
GUY M. SNODGRASS, 0000
MATTHEW A. SOBECKI, 0000
JOSEPH B. SORRELL, 0000
JEFFREY D. SOWERS, 0000
MARION B. SPENCER, 0000
KARSTEN E. SPIES, 0000
KEVIN J. SPROGE, 0000
LANCE A. SRP, 0000
JASON R. STAHL, 0000
JACOB P. STAUB, 0000
JUSTIN E. STEENSON, 0000
MARK B. STEFANIK, 0000
JASON T. STEPP, 0000
BRETT A. STEVENSON, 0000
MATTHEW A. STEVENSON, 0000
ADAM C. STIEVE, 0000
SARA A. STIRES, 0000
RYAN M. STODDARD, 0000
KRISTOPHER W. STONAKER, 0000
ADAM H. STONE, 0000
GEOFFREY S. STOW, 0000
SCOTT E. STRADER, 0000
JOSEPH V. STRASSBERGER, 0000
GREGORY W. STREET, 0000
HARRY A. STROTHER II, 0000
TEAGUE J. SUAREZ, 0000
JAMES E. SUCKART, 0000
BRIAN D. SUMMERS, 0000
DINYI SUN, 0000
SCOTT T. SUNDEM, 0000
STEVEN J. SUSALLA, 0000
LISA A. SUTTER, 0000
GREGORY E. SUTTON, 0000
MICHAEL SYPNIEWSKI, 0000
MATTHEW A. SZOKA, 0000
AARON M. TABOR, 0000
SHANE P. TANNER, 0000
TODD D. TAVOLAZZI, 0000
AARON J. TAYLOR, 0000
DONALD O. TAYLOR, JR., 0000
ERIC L. TAYLOR, 0000
RICK T. TAYLOR, 0000
HERNESTO TELLEZ, 0000
DANIEL W. TESTA, 0000
CRAIG T. THAYER, 0000
JOHN P. THOMAS, 0000
MEGAN A. THOMAS, 0000
TRENT M. THOMPSON, 0000
CHRISTOPHER R. THRELKELD, 0000
PETER THRIFT, 0000
PAUL J. TILL, 0000
GLENN R. TODD, 0000
THOMAS A. TODD, 0000
WARREN W. TOMLINSON, 0000
JOSEPH A. TORRES, 0000
ROBERT M. TOTH, 0000
LEE R. TOTTEN, 0000
DAVID B. TOWNLEY, 0000
MATTHEW A. TRACY, 0000
DARYL E. TRENT, 0000
AUGUST J. TROTTMAN, 0000
BRADY W. TURNAGE, 0000
CHARLES W. TURNER, 0000
BRIAN T. TURNEY, 0000
DEVIN R. TYLER, 0000
KURT C. UHLMANN, 0000
ANDREW J. URBANSKI, 0000
NICHOLAS A. VANDEGRIEND, 0000
BRIAN E. VANDIVER, 0000
JASON R. VANPIETERSOM, 0000
THOMAS M. VANSCOTEN, 0000
JEREMY E. VELLON, 0000
CASE S. VERNON, 0000
JONATHAN L. VIELEY, 0000
MARJORIE E. VIGAL, 0000
THOMAS A. VILEVAC, 0000
BLANDINO A. VILLANUEVA, 0000
MICHAEL A. VIOLETTE, 0000
STEVEN A. WAGGONER, 0000
MICHEAL K. WAGNER, 0000
DAVID B. WAIDELICH, 0000
STEFAN L. WALCH, 0000
SCOTT A. WALGREN, 0000
FRANCIS J. WALTER III, 0000

GREGORY E. WALTERS, 0000
JASON L. WARD, 0000
KENNETH P. WARD, 0000
CHRISTOPHER J. WARDEN, 0000
COLIN P. WARFIELD, 0000
BRANDON W. WARREN, 0000
CLINTON J. WARREN, 0000
HOWARD A. WARREN, 0000
SCOTT A. WASHBURN, 0000
GLENN K. WASHINGTON, 0000
KENNETH D. WASSON II, 0000
SCOTT A. WASTAK, 0000
ARCHIBALD WATKINS, 0000
CURTIS E. WEBSTER, 0000
STEPHEN R. WEEKS, 0000
CHAD E. WELBORN, 0000
ORION P. WELCH, 0000
STEVEN C. WESSNER, 0000
MARK B. WEST, 0000
MARTIN L. WEYENBERG, 0000
SCOTT V. WHELPLEY, 0000
IAN D. WHITCOMB, 0000
EDDIE F. WHITLEY, JR., 0000
JUSTIN K. WHITT, 0000
ROBERT G. WICKMAN, 0000
ADAM D. WIEDER, 0000
TED W. WIEDERHOLT, 0000
PAUL F. WILEY, 0000
DONALD J. WILLIAMS, 0000
ROBERT A. WILLIAMS, 0000
JASON J. WILLIAMSON, 0000
MICHAEL A. WILSON, 0000
DONALD M. WINGARD, 0000
WILLIAM C. WIRTZ, 0000
TERRY P. WISE, JR., 0000
MICHAEL D. WISECUP, 0000
FREDERICK WISSEN, 0000
SEAN Z. WOJTEK, 0000
CHRISTOPHER J. WOOD, 0000
KEITH C. WOODLEY, 0000
MATTHEW A. WRIGHT, 0000
RAFE K. WYSHAM, 0000
TIMOTHY J. YANIK, 0000
PETER YAO, 0000
JARED H. YEE, 0000
BRIAN A. YOUNG, 0000
CURTIS E. YOUNG, 0000
JASON P. YOUNG, 0000
JODY K. YOUNG, 0000
RYAN S. YUSKO, 0000
JOHN T. ZABLOCKI, 0000
MICHAEL J. ZAIKO, 0000
TODD D. ZENTNER, 0000
TRAVIS W. ZETTEL, 0000
DAVID M. ZIELINSKI, 0000
RONALD W. ZITZMAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

CHARLES R. ALLEN, 0000
JODI C. BEATTIE, 0000
JOHN C. BLEIDORN, 0000
LAUREN A. BROSS, 0000
JEREMY J. BRUCH, 0000
JILLENE M. BUSHNELL, 0000
JEREMY J. CALLAHAN, 0000
HARTWELL F. COKE, 0000
JAMES E. COLEMAN, JR., 0000
JACQUELYN C. CROOK, 0000
JOHN P. GARSTKA, 0000
KIMBERLY M. HAUN, 0000
TARA D. LAMBERT, 0000
JOHN M. MARBURGER, 0000
CHRISTI S. MONTGOMERY, 0000
JODY M. POWERS, 0000
WILLIAM H. ROETING IV, 0000
MAXSIMO SALAZAR, 0000
ELIZABETH M. SCHEIDECKER, 0000
DWIGHT E. SMITH, JR., 0000
MICHAEL D. VANCAS, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate Friday, August 3, 2007:

DEPARTMENT OF THE INTERIOR

BRENT T. WAHLQUIST, OF PENNSYLVANIA, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT.

JAMES L. CASWELL, OF IDAHO, TO BE DIRECTOR OF THE BUREAU OF LAND MANAGEMENT.

DEPARTMENT OF ENERGY

LISA E. EPIFANI, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

KEVIN M. KOLEVAR, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF ENERGY (ELECTRICITY DELIVERY AND ENERGY RELIABILITY).

CLARENCE H. ALBRIGHT, OF SOUTH CAROLINA, TO BE UNDER SECRETARY OF ENERGY.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION.

ROBERT BOLDREY, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING MAY 26, 2013.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DENNIS R. SCHRADER, OF MARYLAND, TO BE DEPUTY ADMINISTRATOR FOR NATIONAL PREPAREDNESS, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY.

DEPARTMENT OF COMMERCE

WILLIAM G. SUTTON, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

THOMAS J. BARRETT, OF ALASKA, TO BE DEPUTY SECRETARY OF TRANSPORTATION.

PAUL R. BRUBAKER, OF VIRGINIA, TO BE ADMINISTRATOR OF THE RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

TEVI DAVID TROY, OF NEW YORK, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF LABOR

BRADFORD P. CAMPBELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DAVID W. JAMES, OF MISSOURI, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF STATE

MARK GREEN, OF WISCONSIN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

THE JUDICIARY

TIMOTHY D. DEGIUSTI, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID A. DEPTULA, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CLAUDE R. KEHLER, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KENNETH W. HUNZEKER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES D. THURMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES J. LOVELACE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. CARTER F. HAM, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. LAWRENCE A. HASKINS, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. RICHARD K. GALLAGHER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. ROBERT T. MOELLER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JAMES A. WINNEFELD, JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 152 AND 601:

To be admiral

ADM. MICHAEL G. MULLEN, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 154:

To be general

GEN. JAMES E. CARTWRIGHT, 0000

IN THE AIR FORCE

AIR FORCE NOMINATION OF DAMION T. GOTTLIEB, 0000, TO BE MAJOR.

AIR FORCE NOMINATION OF FRANCIS E. LOWE, 0000, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATIONS BEGINNING WITH LISTA M. BENSON AND ENDING WITH KAREN L. WEIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH KEVIN C. BLAKLEY AND ENDING WITH ROBERT A. TETLA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH ROBERT K. ABERNATHY AND ENDING WITH ANTHONY J. ZUCCO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH MARY ANN BEHAN AND ENDING WITH PAUL A. WILLINGHAM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH DAWUD A. AGBERE AND ENDING WITH EDWARD J. YURUS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

ARMY NOMINATIONS BEGINNING WITH BLAKE C. ORTNER AND ENDING WITH ANDREW S. ZELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

ARMY NOMINATIONS BEGINNING WITH JULIE A. BENTZ AND ENDING WITH THOMAS L. TURPIN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

ARMY NOMINATIONS BEGINNING WITH LARRY L. GUYTON AND ENDING WITH LINDA M. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

IN THE COAST GUARD

COAST GUARD NOMINATION OF KRISTINE B. NEELEY, 0000, TO BE LIEUTENANT.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH JOSE A. ACOSTA AND ENDING WITH LAWRENCE A. RAMIREZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

NAVY NOMINATIONS BEGINNING WITH DOUGLAS P. BARBER, JR. AND ENDING WITH THOMAS J. WELSH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

NAVY NOMINATIONS BEGINNING WITH SUSAN D. CHACON AND ENDING WITH SEUNG C. YANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

NAVY NOMINATIONS BEGINNING WITH ENEIN Y. H. ABOUL AND ENDING WITH KIMBERLY A. ZUZELSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 25, 2007.

WITHDRAWAL

Executive message transmitted by the President to the Senate on August 3, 2007 withdrawing from further Senate consideration the following nomination:

RICHARD E. HOAGLAND, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2007.

DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were confirmed:

BRADFORD P. CAMPBELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DAVID W. JAMES, OF MISSOURI, TO BE AN ASSISTANT SECRETARY OF LABOR.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nomination and the nomination was confirmed:

MARK GREEN, OF WISCONSIN, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

The Senate Committee on Finance was discharged from further consideration of the following nomination and the nomination was confirmed:

TEVI DAVID TROY, OF NEW YORK, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES.