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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain John K. Jenkins, Sr., Pastor at First Baptist Church of Glenarden, Landover, MD.

PRAYER

The guest Chaplain offered the following prayer:

Shall we pray.

Heavenly Father, I come before Your presence to thank You and praise You for this day. I thank You for Your goodness and Your mercy. I thank You for Your grace and love that You have extended to us every day.

Father, I come to You today to thank You for the honor and privilege of living in this great and marvelous country. I thank You for our freedom and for the ability to worship You and serve You freely. We do not consider it lightly that You have given us this opportunity, and we thank You.

I cry out to You this day, Heavenly Father, for our Nation—for the people of this country. I cry out for the mothers and fathers. I pray for their children. I cry out for our school systems, police departments, government agencies and businesses. Please allow this Nation to be one that will honor You and Your ways.

Lord, I beseech Your throne this day on behalf of these prominent leaders of our Nation. Give them Your truth and Your direction. Give them Your wisdom and Your power. I pray for each of these Senators and their families—their spouses and their children. I pray for the people whom these men and women represent. I ask that You meet their needs and prove Yourself strong to each of them.

Finally, Father, I close this prayer by giving You thanks and praise for what You have already done, for what You are doing, and for what You are going to do. I thank You now and I pray this prayer in the Mighty Name of my resurrected Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 10, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, this morning, we will have morning business until 11 a.m. At 11 o'clock, we will resume the bankruptcy legislation and immediately proceed to three consecutive rollcall votes. Those votes are on the Kennedy amendments Nos. 70 and 69, and the Akaka amendment No. 105. Under the order from last night, we will then have another series or two of stacked votes throughout the day in order to finish the bill.

We will vote on final passage of the bankruptcy bill later today. It is going to be a very busy day, with many rollcall votes over the course of today. Therefore, I encourage all Members to remain close to the floor. We will limit all votes, after the first in the series, to 10 minutes in length. I encourage my colleagues to stay nearby so that we do not have to extend this limit. It is always difficult, and we always have excuses as people come in a few minutes late, but on a day like today we need—we will; not need—we will finish this bill. We will have a lot of votes over the course of today. We have to have all of our colleagues understand that they need to come and vote, and vote on time.

Over the course of the day, we will consider the bankruptcy bill. It is a bill we have worked on for not just the last 2 weeks solidly but really for the last about 7 years or 8 years, almost in the same form that is being addressed today. It has been talked about, has been discussed, has been debated, and has been modified.

Later today, we will have a great victory again for the American people in passing the bill that I expect will pass with overwhelming bipartisan support. The issues that we are talking about are not Democrat issues or Republican issues; they really are American issues. Today, people will be able to look back over the course of the last 2 weeks, and really this whole 109th Congress, and say that we are doing what the American people want, what they deserve; that is, to govern with meaningful solutions to the very real challenges, the very real problems in people's lives, whether it is in Tennessee or Florida or Nevada or California, all over this country. So I am very pleased with the activity on the floor of the Senate.

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

Over the course of the day, the Budget Committee will also be marking up the budget proposal. Once that markup is completed, we will bring that to the floor. I would very much like to be able to start that bill, if at all possible, tomorrow. Under the rules of the Senate, after that bill comes to the floor, we will spend 50 hours on that bill, and we will have a number of votes.

Once again, historically, or in the recent past, we have had amendment after amendment after amendment. The Democratic leader and I have, over the last week, been engaged in discussions on how we can help the managers of that bill limit the amendments to those amendments that really are important and substantive and to have a good discussion between us and between the managers, among all the Senators, so we can coordinate how to bring those amendments to the floor and have them voted upon so that we do not, at the end of the day, or at the end of that 50 hours, have 30, 40, 50, 60, 70, 80, 90 amendments, which we have seen in the past. It is not necessary.

If we can work together over the course of the next 8 or 9 days, I believe we can take what can be very chaotic on the floor and give it some definition and make it clear to people we want their ideas heard, we want them debated within the 50 hours, we want to have them voted upon, but we can do it in a way that brings order out of this sometimes chaotic process.

With that, Mr. President, I will yield the floor, looking forward to a very full day. We will be in session tomorrow. I would think—and I will have more to say a little bit later, but in talking to the Democratic leader, if we can complete the budget today in committee, and I believe we can, and if we complete this bankruptcy bill, which we will, then I would think we probably would not have to have rollcall votes tomorrow. We will be in session tomorrow. I put both of those ''ifs'' in there because we have to move forward and accomplish the business before us. If we were unable to finish those two things, we would have to be in tomorrow with rollcall votes.

But our goal is to complete the markup on the budget and complete the bankruptcy bill today. I would like to do it in the late afternoon. If not, we will go into the evening until we complete both.

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

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

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 11 a.m., with the time equally divided between the leaders or their designees.

The Senator from Massachusetts.

BANKRUPTCY REFORM

Mr. KENNEDY. I yield myself such time as I might use.

Mr. President, I speak now in morning business because at 11 o'clock we will have a continuation of votes in the Senate on the bankruptcy bill. Then we will have a series of votes later on in the afternoon, with a time to be designated by the leadership. Then we will move to final passage. There would not be otherwise an opportunity to express my views about the bankruptcy bill in general and on a number of the items we have debated and on which we have failed to persuade the majority of our colleagues. I want to reference those in my remarks this morning.

America at its best is when we are united in common cause and a unified purpose. We came together to overcome the Great Depression. We came together to fight two world wars against tyranny. We came together in the Cold War years to contain and defeat Communism. We came together to fight polio, to explore the heavens, and to create a secure retirement for our seniors. We came together after much struggle to expand the circle of opportunity in America for civil rights, voting rights, disability rights, and women's rights. We came together on 9/11 as a nation determined to fight terrorism and defend our land.

As Americans, we know how to come together to achieve great goals, to make stronger our communities, our families, our economy, our schools, and our nation. That is the America I believe in. That is the America I fight for every day. An America where we are joined arm in arm to advance the cause of opportunity, freedom, and fairness for all of our people.

But this legislation breaks the bond that unites America, the bond that makes our country strong. It says the concerns of low and middle-income families don't matter. They no longer have a voice in the United States Senate. What matters are the special interests. This bill sacrifices the hopes and dreams of average Americans to the rampant greed of the credit card industry. It turns the United States Senate into a collection agency for the credit card companies, reaching the long arm of the law into the pocketbooks of average Americans who have reached the end of their economic rope.

That is wrong. That is not what we should be doing here. We have a responsibility to the people to fight for them and their needs, not to do the bidding of the almighty credit card companies.

A lot of people are going to be pained with this bill. Make no mistake. The idea that this bill is focused on spendthrifts is laughable when the other side admits that the most we have in terms of spendthrifts is maybe 10 percent of the total of those who go into bankruptcy, and most of the bankruptcy attorneys say it is anywhere from 5 to 7 percent. We are picking up all these individuals who are going to be forced to pay and be treated more harshly with this bill than they otherwise would be under the regular Bankruptcy Act.

Our bankruptcy laws are intended to give families a second chance. As Americans, we believe that if you work hard, live responsibly, but fall on hard times, our bankruptcy laws should be there to help you get back on your feet. If you get sick and face a mountain of medical bills, if you face divorce and no longer have two incomes to support your family, if your job gets sent overseas, then Americans believe you should have an opportunity to rebuild your lives.

These are the principal causes for bankruptcy. We know that more children drop out of college every single year, not academically, but because of the cost of student loans. They can't pay them. We have been through this during the course of the debate. If you have a heart attack, if you are diagnosed with cancer, even if you have health insurance, you basically have overwhelming bills and more often than not get thrown into bankruptcy. If you get divorced—as we will have a chance to vote on—200,000 women don't receive alimony and don't receive child support, these are hard-working Americans who are going to get thrown into bankruptcy. And rather than be let out so that they will have a new chance and a new opportunity in life because they have done nothing wrong, they are going to be tied up and paying the credit card companies for the next 5 years. That is the way this bill works.

This bill changes everything. It takes dozens and dozens of bankruptcy rules and rewrites every single one of them in favor of the credit card industry. Yesterday, we witnessed the powerful grip of this industry over the Republican Party. The Republicans defeated amendment after amendment after amendment after amendment that tried to give average Americans a fair chance when they face the credit card company lawyers in bankruptcy court. But when it appeared that a special interest loophole for the financial services industry threatened to be closed by the Leahy-Sarbanes-Warner amendment, the Republicans shut down the Senate.

It is not as if the credit card industry is suffering. As we can see from this chart, the profits are in the billions of dollars: $6.4 billion 1990; $12.9 billion in 1995; $20.5 billion in 2000; and they expect as a result of this bill that it will be 5 billion more dollars in profits. That is what this bill will mean. Over who? Over the families going into bankruptcy because of a heart attack, a stroke, children who have spina

bifida, over women who are not getting paid alimony or child support, over those workers whose jobs have been shipped overseas trying hard to pick up another job and can't keep up with the payments and go into bankruptcy. Those are the people who are suffering. But when it came to an issue involving the financial services industry, our Republican leadership closed the Senate down last night.

In the 8 years that this bill has been before the Senate, credit card profits have jumped 163 percent from $11.5 billion a year to more than $30 billion a year.

We hear the proponents of this legislation say: Look, we have had this legislation before us for 8 years. We have a problem. We have to deal with the problem. A problem, with these kinds of profits?

We have a problem with health care coverage for Americans. We have a problem with the cost of health care. We have a challenge in supporting our schools and our local communities. That is what is on the minds of Americans. Here we are in the Senate, taking 2 weeks of our time in order to look out for the credit card companies and make sure there are going to be greater profits for a single industry. That is the priority of the Republican leadership, rather than dealing with the root causes of so many of those who will be dragged into bankruptcy and made indentured servants to the credit card industry for the next 5 years. It does not make sense. These are the wrong priorities, the wrong values.

Middle class families are facing tough times with incomes falling, health costs out of control, college tuition through the roof, and now gasoline prices rising once again.

But this bill says that what's going on in your life every day doesn't matter.

You may be a member of the Guard or the Reserve called to Iraq and your business failed because you were away serving your country. In fact, 40 percent of those called up say they lost income, and over 19,000 soldiers declared bankruptcy just last year. They sacrificed their lives in Iraq and their financial security here at home, but the credit card companies will honor their service by squeezing every last dime out of our veterans in bankruptcy court.

Here is a letter from the Military Officers Association of America:

> On behalf of the nearly 370,000 members of the Military Officers Association . . . I am writing to request your support for the protection of servicemembers, veterans, and military survivors from the increased bankruptcy penalties.

They have it right, ''increased bankruptcy penalties.'' And this was written after Senators accepted the Sessions amendment which is just eye dressing.

> Our association is sensitive that overseas contingencies disrupt the lives and finances of servicemembers and their families. This is particularly true of the mobilized Guard and Reserve members. Those who are self-employed, or who took significant pay cuts from their civilian occupations, have been placed at increased risk of facing bankruptcy because of their service and sacrifice for our Nation. Survivors of members killed on active duty also may find themselves at increased financial risk. Many have left service rather than be subject to similar recalls in the future, and we are already concerned about the implications of this for long-term retention and readiness.
>
> MOAA does not believe this is the time to impose new financial strictures . . .

There it is. Nonetheless, we have gone ahead and done that. Democrats tried to correct this problem, to put some balance and fairness in the bill. Senator DURBIN offered an amendment to protect those who protect us, but our Republican friends said no. Every single Republican in the United States Senate voted for more credit card profits and against our service men and women.

You may be a cancer survivor, but you can't survive the $35,000 in medical bills that your insurance company won't pay, and you lost another $20,000 for all the months you couldn't work and had to use your credit cards to pay the mortgage, cover the car payments, pay the utilities, and buy the groceries. You're doing everything you can to pay down your debt. You have taken out a second mortgage. You have cashed in your retirement savings. Your family is sharing one car.

But that doesn't matter. Under this bill, the profits of the credit card companies are more important than your recovery from cancer. Tough words; tough bill.

Democrats fought to correct this problem. I offered an amendment to give responsible Americans who fall on hard times due to illness or injury a fair chance in bankruptcy court. But the Republicans voted against these Americans in favor of the credit card companies.

You may be a single mother trying to raise your family, juggle your job and school, and rely on alimony and child support to pay the bills. But more than 200,000 women owed alimony or child support are forced into bankruptcy every year.

Democrats are addressing this problem, too. Republicans have a chance to vote for single mothers later this morning. We have a chance to say to women across America, who are taking responsibility every single day for their children, but have a deadbeat dad who won't do his part, that we're on your side. We believe it's more important for you to get back on your feet than for the credit card companies to have greater profits.

Maybe your job was one of the 2.8 million manufacturing jobs that have been shipped overseas in the past 4 years. You found a new job, but it pays only half as much. But under this bill, it doesn't matter. In bankruptcy court you will still have to keep paying the exorbitant interest payments to the credit card companies as if you still had your old, better paying job.

It doesn't matter that you have worked hard and lived responsibly all your life.

It doesn't matter that you were willing to take a lower paying job because you wanted to be a contributing member of society.

It doesn't matter that you clip grocery coupons every week to try to preserve the money you set aside to put your children through college.

It doesn't matter that you gave up your vacation to pay for repairs to your leaky roof.

It doesn't matter that your lost job means you had to move your elderly parents into a cheaper nursing home to try to avoid bankruptcy.

It doesn't matter. You can sacrifice and cut corners and put aside hopes and plans and dreams. But all that matters in this bill is for the credit card companies to have more and more profits.

We'll have a chance to vote on this question later this morning, too. But I have a feeling that Republicans are going to say no to the needs of Americans whose jobs have been outsourced overseas, just as they have said no to Iraq veterans, to single mothers, to children, and to seniors.

We should be working to unite the country to achieve great goals again. Why are we not debating those issues here on the floor of the Senate, instead of trying to get more profits for the credit card industry—perhaps the most profitable industry in America—at the expense of the mothers, children, veterans of Iraq, those who have serious health care bills, and those whose jobs have been shipped overseas. We should be battling for them. We should be battling to improve our schools and make college more affordable. We should be strengthening our economy and training our workers to compete against globalization. We should be fighting to keep our country safe from terrorism.

This bill makes these goals more difficult to achieve. It divides America by rewarding the most powerful special interests at the expense of low and middle-income families. A Republican supporter of the bill said yesterday that this bill was ''fair and balanced.'' Where is the fairness? Where is the balance?

It does nothing to fix the millionaires' mansion loophole that allows millionaires to go into bankruptcy and still keep their massive estates. You may lose your home, but they get to keep their palaces under this bill. Where was the effort on the other side—talking about a fair and balanced bill—to try to do something about that? All they could do was whip up their own membership in order to defeat that amendment to have one standard for all Americans. That is what I thought we were about as a country one standard—not a dual standard for wealthy millionaires that can hide the tens of millions of dollars

in their mansions and palaces in a handful of States.

It does nothing to help the thousands upon thousands of employees and retirees of companies like Enron and WorldCom and Polaroid, who are left out, twisting in the wind, after a bankruptcy process that lets the responsible corporate executives go free. They go free. These employees lose their pensions, their health insurance, their retirement, and their investments, as they did at Polaroid. Is there anything in this bill to try to help those individuals, many of whom worked a lifetime for these companies? Absolutely not. They are fair game. After these individuals, the Ebbers, the Skillings, Enron, and the rest, robbed those companies, they are sitting in their mansions now in Houston; but these other individuals will be dragged into bankruptcy court if they get a serious illness or sickness, or if they run into family problems.

Fair and balanced? No way, Mr. President. The Republicans and the credit card companies may get their way, and the American people may lose this round; but the fight is never over until we have assured fairness and freedom and opportunity for every one of our citizens. That is our pledge as Democrats today and tomorrow and in the future. That is why I hope our colleagues will vote no.

I will mention a few further items. One is from the Children's Defense Fund, who care about children. We tried to point out some of the other groups that will be affected. Here is a letter from the Children's Defense Fund. I will read excerpts of it. I ask unanimous consent that this letter be printed in the RECORD.

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

CHILDREN'S DEFENSE FUND,
Washington, DC, March 1, 2005.

Re: oppose S. 256, the Bankruptcy Act of 2005.

DEAR SENATOR: The Children's Defense Fund is writing to urge you to oppose S. 256, a bankruptcy bill that would hurt many Americans facing financial problems due to job loss, divorce, child-rearing, lack of medical insurance, or predatory lending practices. This bill would inflict hardship on more than one million economically vulnerable women and families who are affected by the bankruptcy system each year. Medical emergency, job loss or family breakups are factors which account for nine out of ten filings.

The bill would also hurt women who are owed child or spousal support by men who file for bankruptcy. The bill will make it more difficult for mothers to collect support because credit card companies and other commercial creditors will have greater claims to the debtor's resources during and after bankruptcy. Being first among unsecured creditors in Chapter 7 bankruptcy is meaningless when over 95 percent of debtors have no resources to pay unsecured creditors. In Chapter 13, the bill would require larger payments to be made to many commercial creditors, resulting in smaller payments of past-due child support over a longer period of time, increasing the risk that child support debts will not be paid in full. And after the bankruptcy is over, more debts owed to commercial creditors will survive—and mothers and children owed support are not a match for the collection departments of the commercial credit industry.

S. 256 contains a number of provisions which would have a severe impact on families trying to regain their economic stability through the bankruptcy process. S. 256 would make it harder for women to access the bankruptcy system. Low and moderate income families are not protected from many of the bill's harsh provisions. Parents who desperately need to preserve their homes from foreclosure or prevent their families from being evicted, or keep a car to get to work, would find it more difficult to do so. And, when the bankruptcy process was over, parents already facing economic disadvantage would find it harder to focus their income on reasonable and necessary support for dependent children because many more debts would survive.

Passage of the bankruptcy bill would make it harder for families struck by financial misfortune to get back on track. It would benefit the very profitable credit card industry at the expense of the modest-income families who represent the great majority of those who declare bankruptcy. Congress should not enact reform that puts women and children at greater risk. The bill is profoundly unfair and unbalanced. Unless there are major changes to S. 256, we urge you to oppose it.

Very truly yours,
DEBORAH CUTLER-ORTIZ,
Director of Family Income and Jobs, Children's Defense Fund.

Mr. KENNEDY. In part, the letter says:

This bill would inflict hardship on more than 1 million economically vulnerable women and families who are affected by the bankruptcy system each year.

. . . and after the bankruptcy is over, more and more debts owed to the commercial creditors will survive—and mothers and children owed support are not a match for the collection departments of the commercial credit industry.

There it is. The credit card companies and the mothers will be scrambling over the nickels and dimes that might be left. Guess who is going to win out? That is the fairness and balance that has been put in here. That is why the Children's Defense Fund is strongly opposed to this.

The National Women's Law Center wrote:

This bill would inflict additional hardship on over one million economically vulnerable women and families who are affected by the bankruptcy system each year: those forced into bankruptcy because of job loss, medical emergency, or family breakup—factors which account for nine out of ten filings—and women who are owed child or spousal support by men who file for bankruptcy.

It will make it ''harder for women to meet their children's needs after bankruptcy because many more debts would survive.''

Finally, the Alliance for Retired Americans wrote:

The fastest growing group of Americans filing for bankruptcy are those over 65. This unfortunate situation has been caused by skyrocketing health costs that can drain a lifetime of savings in a very short period of time. In addition, many older Americans have seen their pensions and retirement savings disappear as well. The result has been that many older Americans cannot enjoy the security in their retirement through no fault of their own. And they end up in bankruptcy.

This legislation before the Senate actually increases the burden on older Americans who undergo financially difficult times through health care costs or loss of retirement income.

This administration wants to privatize Social Security. This is what they say. That is why they are opposed to it. Those who represent the children are opposed to it. The ones in the military are opposed to it. Those who represent workers are opposed to it. Those who represent women are opposed to it. The one group that is for it is the credit card companies. Take your choice. I know how I will decide.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Utah.

Mr. HATCH. Madam President, the crisis created by the unprecedented use of filibusters to defeat judicial nominations must be solved while preserving two important Senate traditions. On the one hand, extended debate is an important part of how the United States Senate conducts its legislative business. On the other hand, we have traditionally given judicial nominations reaching the Senate floor a final confirmation decision. Two years ago, this latter tradition was attacked when the filibuster was used for the first time to defeat majority supported judicial nominations. Mr. President, these are two different and important traditions and each must be preserved.

Solving this crisis by restoring Senate tradition is not a partisan step, but is in the interest of the Senate as an institution. Both Republicans and Democrats should follow the same standard, no matter which party occupies the White House or runs the Senate. Neither Democrats nor Republicans should have to go through this vicious cycle of filibusters against qualified judicial nominees.

Let me first clarify once again the situation in which we find ourselves. Before 2003, no majority supported judicial nomination had been defeated by a filibuster. Under our Rule XXII, we did vote on motions to end debate on judicial nominations, though we did so just 15 times in 35 years. Simply taking a cloture vote, however, does not mean a filibuster is underway. In fact, some of those cloture votes were used deliberately to prevent filibusters, clearing the procedural path and guaranteeing an up or down confirmation vote. Some have been used for floor management purposes. We did so even on very controversial nominations, such as President Clinton's choices of Richard Paez and Marsha Berzon for the U.S. Court of Appeals for the Ninth Circuit.

Before 2003, only one judicial nomination on which cloture was not invoked was not confirmed. Opposition to cloture on the controversial 1968 nomination of Abe Fortas to be Chief Justice was evenly bipartisan and showed that

the nominee lacked clear majority support. At the nominee's request, President Lyndon Johnson withdrew the nomination the next day. Senator Robert Griffin, from Michigan, who led opposition to the nomination, personally told me that there never was an intention to use the filibuster to defeat the Fortas nomination. There was no need, since the votes were there to defeat the nomination outright. Lyndon Johnson knew it and that is why they withdrew the nomination rather than be embarrassed by the bipartisan vote of both parties against the nominee.

Before 2003, if the Senate rejected a judicial nomination that reached the Senate floor, we did so by voting it down; filibusters did not prevent a final vote in order to keep a nomination from confirmation. The break with that tradition came in 2003. During the 108th Congress alone, we voted on motions to end debate on judicial nominations 20 times. Each vote failed, and opposition to cloture was completely partisan. None of those nominees was confirmed, though each had clear bipartisan majority support.

Those who want to end this Senate tradition of giving judicial nominations reaching the Senate floor an up or down vote fear they will lose if we follow that tradition. To them, the end of defeating President Bush's judicial nominations justifies the means of destroying Senate tradition. Being honest about it would reveal how such partisan strategies are politicizing the judicial appointment process, so they try to make other arguments.

They claim Republicans filibustered President Clinton's judicial nominations, but each of his judicial nominees on whom we took a cloture vote is today a sitting Federal judge.

They claim they don't filibuster very often, which is beside the point if using the filibuster against judicial nominations violates constitutional principles and departs from Senate tradition. There have already been enough judicial nomination filibusters to give President Bush the lowest appeals court confirmation rate of any president since Franklin Roosevelt.

Or they claim they filibuster only nominees who are out of some kind of mainstream. It is difficult to know what that charge really means, especially since the American Bar Association—which Democrats once considered the gold standard—has found them qualified. Senators may, of course, vote against a judicial nominee for any reason they wish, but we should stop pretending that out of the mainstream is anything more than a prediction that the nominee may not always rule the way liberal interest groups want. Considering the stream in which many of those groups swim, I'm not so sure this isn't a compliment. If the mainstream really mattered, though, these filibusters would never have started. Newspaper editorials opposing filibusters of judicial nominations outnumber those supporting them by at least six-to-one.

Madam President, I ask unanimous consent that some representative editorials from mainstream newspapers be printed in the RECORD.

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

[From the Wall Street Journal, May 13, 2003]

THE POLITICS OF FILIBUSTERS

Where's Jimmy Stewart when you need him? Two historic filibusters are currently under way in the Senate—one's been going on for months—but next to no one outside the Beltway has noticed.

Senate business proceeds as usual, the Members get to sleep in their own beds at night, and Miguel Estrada and Priscilla Owen's names come up only when repeated motions to close debate and bring their judicial nominations to a vote are defeated. Hollywood is not remaking ''Mr. Smith Goes to Washington.'' All of which is exactly the way Democrats want it: They can defeat two Bush judges, and more down the road, without paying a political price.

So one can hardly blame Majority Leader Bill Frist for trying to shine a little light on the problem. The Democrats are imposing an extraordinary new standard for confirming judges—not a simple majority of 51 votes but a super-majority of 60, the number required to shut off debate. Both filibustered nominees have the support of a bipartisan majority, yet they are being denied the confirmation votes to which they are entitled under the advice-and-consent clause of the U.S. Constitution.

Mr. Frist's proposed solution is to change the procedure under which debate ends and a vote is taken, a process known as ''cloture.'' He would amend Senate Rule XXII so that the number of votes needed to end a filibuster would fall from 60 to 57 to 54 to 51 on successive votes. This would preserve the essential purpose of the filibuster—which is to give the minority a chance to make their case—but not let them abuse the system by holding confirmable nominees hostage forever.

Georgia Democrat Zell Miller made an even more ambitious reform proposal on this page in March, when he called for new cloture rules for nominations and legislation—not just nominations, as Mr. Frist proposes. Mr. Miller's proposal was in turn based on one in 1995 by Democrats Tom Harkin and Joseph Lieberman.

That last one had the support of none other than Tom Daschle, who said at the time that ''Democracy means majority rule, not minority gridlock.'' Mr. Daschle hewed to a different principle on Sunday, when he told NBC's ''Meet the Press'' that Mr. Estrada and Judge Owen are ''exceptions to the rule'' that every nominee deserves an up or down vote in the Senate. Apparently he doesn't believe the Constitution should be applied equally to every American.

Under current practice no Senate rule, including the 60–vote cloture rule, can be changed except by a two-thirds majority. Which is where things get interesting, constitutionally speaking. Many legal scholars—liberal and conservative—argue that Rule XXII is unconstitutional because it binds future Senates to rules made by a past Senate. ''It is an ancient principle of Anglo-American law that one legislature cannot bind a succeeding legislature,'' Steven Calabresi of Northwestern Law School, told the Senate last week.

Catholic University's Douglas Kmiec made a similar point on this page in March, and Lloyd Cutler, White House Counsel to Presidents Carter and Clinton, wrote in 1993 that ''the Senate rule requiring a super-majority vote to cut off debate is unconstitutional.'' Vice Presidents Nixon, Humphrey and Rockefeller, while presiding over the Senate, have all held that Senate rules can be changed by a simple majority.

If the current Senate did that with Rule XXII—obtain a majority vote to change the cloture rules for nominations—Vice President Cheney would presumably agree. That would leave the Democrats with the option of going to court, where the Supreme Court could take the case or, more likely, decide it was a political dispute best left to the Senate to resolve. The President's nominees would be seated.

We've said it before, but it's worth repeating that the Democrats' judicial filibusters are unprecedented in Senate history. Filibustering nominations wasn't even permitted until 1949 and the sole judicial nominee stopped by a filibuster was Abe Fortas, LBJ's nominee for Supreme Court Chief Justice, who faced charges of corruption. Meanwhile, the Democrats are just warming up. A third appeals-court filibuster looks likely this spring, and a Supreme Court filibuster could be next if there's a vacancy this summer.

The system for confirming judges is clearly broken. Democrats are playing politics with Senate rules, but they now profess shock and outrage that Republicans want to play politics too and reform the filibuster rules being abused. Sounds to us as if Republicans are on to something.

[From the Wheeling News Register Intelligencer, Sept. 8, 2003]

TIME FOR FILIBUSTER RULES TO CHANGE

Miguel Estrada, whose nomination to the U.S. Court of Appeals was bottled up by hyper-partisan Democratic opposition for more than two years, decided to get on with his life and withdrew himself from the nomination process.

It should not have shocked Republicans to see their liberal colleagues play hardball on judicial nominations. Democrats have been doing it since the Reagan administration. Teddy Kennedy and friends undoubtedly are astonished to encounter a GOP Senate leadership so feckless that it has allowed them to get away with imposing an extra-constitutional 60-vote supermajority requirement on judicial nominations, by using the filibuster technique to stall a vote on Estrada. It takes 60 votes to end a filibuster, and Senate leaders no less than seven times mounted ''cloture'' votes to ''end debate,'' each time coming up short.

But they never forced Democrats to take to the Senate floor to expound at length about their opposition to Estrada or any of the several other nominees now subject to powder-puff filibusters. All a senator need do these days is threaten a ''filibuster,'' and—presto!—60 votes are required to accomplish anything. The ''filibustering'' senators need not worry about actually having to publicly defend their position on the Senate floor.

Yes, long gone are the scenes from Frank Capra films in which senators lose their voices trying to keep the floor to maintain filibusters.

While Republicans have control of the Senate, they should put an end to this practice that allows the will of the minority to prevail without any effort being put into it.

The practical effect of GOP leaders allowing the minority to so easily impose a 60-vote supermajority means there's a new set of litmus tests for the courts: No judge may be confirmed unless he or she agrees with the Senate's left wing.

Now that there's nomination blood in the water, Republicans can expect a lot more bare-knuckle torpedoing of President Bush's

judicial nominees unless Republicans are willing to actually get a little political dirt under their fingernails. And maybe even—gasp!—sacrifice an all-nighter on the Senate floor by making the ''filibusterers'' actually filibuster. If they want it badly enough, they should have to work for it.

[From the Grand Forks Herald, Mar. 13, 2003]

CALL END TO FILIBUSTER

(By Tom Dennis)

Our View: Don't set a new constitutional standard of demanding a supermajority vote.

North Dakota's congressional delegation has to walk a political tightrope. Sens. Kent Conrad and Byron Dorgan and Rep. Earl Pomeroy are Democrats, while North Dakota itself trends heavily Republican. The GOP's supermajorities in both houses of the state Legislature, plus the fact that voters chose Republicans for president in 1992, 1996 and 2000, illustrate this.

But the delegation not only has walked that tightrope, it has done handstands and even an occasional flip. All three members are masters of wrangling federal dollars for North Dakota projects. Furthermore, they've chosen their party-line issues with care, voting with the Democrats on the budget but showing more independence on some social and environmental issues.

The Miguel Estrada filibuster in the Senate, however, may change that perception.

Because the filibuster is as nakedly partisan as an issue gets.

Estrada is President Bush's candidate for the District of Columbia Circuit Court of Appeals. He's a Harvard Law School graduate who clerked for a Supreme Court justice, worked in the U.S. Solicitor General's office, argued cases in front of the Supreme Court, earned the top ranking of ''well qualified'' from the American Bar Association—and didn't speak English when he immigrated to the United States from Honduras, to boot.

Fifty-five senators (including four Democrats) support his nomination. But the other 45 Senators won't let it come to the floor for a vote. They've invoked a filibuster. They say they're doing it because Estrada hasn't answered enough questions, but that's patently false. Senators know as much or more about Estrada as they have about most nominees. Furthermore, when given the chance to ask Estrada more questions in writing, not one Democratic senator took the administration up on its offer.

No, the transparent reason for the filibuster is that Estrada's a conservative Hispanic lawyer who has a shot at being named to the U.S. Supreme Court.

And for the left wing of the Democratic party, that's do-or-die unacceptable.

Conrad and Dorgan should distance themselves from this scorched-earth tactic. The Constitution gives the president the power to appoint ''with the Advice and Consent of the Senate . . . Judges of the supreme Court and all other Officers of the United States.'' It does so in the same paragraph in which it lists a special power demanding a two-thirds majority Senate vote—namely, the power to ratify treaties.

The Founding Fathers could have held judicial confirmations to that higher standard. But they didn't. Clearly, they intended judges to be confirmed by a simple Senate majority. Just as clearly, 200 years of Senate practice call for the same thing.

The GOP won its Senate majority fair and square. The filibustering Democrats smack of being spoilers when they obstruct majority rule, especially because their objection in this case is not based on truth, justice or the American way, but on politics.

Fifty-five duly elected United States senators are willing to give Estrada the nod. That's enough.

Let his nomination come to the floor, and call the vote.

[From the Buffalo News (New York), Mar. 19, 2003]

LET'S CHANGE RULES THAT HANG UP JUDICIAL NOMINEES

Senate rules are an important part of American political tradition, worthy of respect. Ditto for the constitutional process by which the Senate confirms federal judges. The abuse of one must not be allowed to undermine the other. But that is precisely what is happening. No matter which party controls the Senate gavel, when it comes to confirming judges, those in power too often behave reprehensibly.

Senators grandstand and play games. They distort nominees' records and views, misrepresent their positions and malign them with words like ''extremist.'' It is no wonder there is such a high number of judicial vacancies at the federal level. . . .

The system is flat broken. And, finally, last week, thank goodness, someone said so. President Bush is justifiably upset at how Democrats have abused the filibuster to thwart the nomination of Miguel Estrada. . . .

Now the president proposes something drastic: amend the Senate rule book to require that, no matter which party controls the White House or Senate, all federal judicial nominees get an up-or-down vote. The practical application would be to eliminate the filibuster with regard to judicial nominees. Wow. It's not every day the president wants to tinker with Senate tradition. . . . Thank goodness.

But the status quo is unacceptable. If Democrats have other ideas, let's hear them. If not, Americans should push the Senate to embrace Bush's suggestion. . . .

[Las Vegas Review Journal, June 20, 2003]

ADVICE AND CONSENT

Has the fact that presidents of the United States appoint the justices of the U.S. Supreme Court now become such an obscure factoid that it's about to be relegated to an answer in the new edition of ''Trivial Pursuit''?

Apparently the Democrats think so.

Since the nation's founding document says the president ''shall nominate, and by and with the advice and consent of the Senate, shall appoint judges of the Supreme Court,'' Democratic Sen. Patrick K. Leahy of Vermont, on behalf of fellow Senate Judiciary Committee member Charles E. Schumer of New York and others, wrote to the president on June 11, offering to help Mr. Bush choose his next high court ''nominee or nominees.'' There is speculation that one or more member of the current court may step down after the current term.

The offer sounds conciliatory on its face—after all, wouldn't it be better for everyone to get together and choose a consensus candidate beforehand, rather than subject a string of nominees to hostile questioning and ultimate rejection on political grounds?

The ''advice and consent'' clause might indeed lend itself to such a novel reading—if the Senate were overwhelmingly held by a party diametrically opposed to the president's philosophical leanings.

But if this has never been the procedure in times when the government was thus implacably divided, why on earth should it be adopted now? It's not as though Sens. Leahy, Schumer and Barbara Boxer of California represent the majority in the U.S. Senate. In fact, their current efforts to bottle up Mr. Bush's fully qualified appellate court nominees appear desperate and divisive precisely because most of those nominees would be quickly confirmed if an open vote were allowed on the Senate floor—precisely as the founders intended.

Rather, a small minority of these aging warhorses of the failed policies of Lyndon Johnson's Great Society now use the arcane and Byzantine rules of the Senate to keep those nominations from coming to the floor.

''I am astounded by those letters. Does Charles Schumer think he is the president?'' law professor John Eastman told The Los Angeles Times.

Of course, there's a knife concealed in the folds of the Democrats' proffered ''gift.'' The implication is that—if they are not given this extraordinary power to hand the president their own list of suitably liberal nominees, or to strike names of known constitutionalists off any list the president may have in hand—they might even filibuster a nomination to the Supreme Court.

Wisely, Mr. Bush has now called that bluff.

White House counsel Alberto R. Gonzales replied in a letter to Senate Democrats Wednesday that, ''If a Supreme Court vacancy arises during his presidency, President Bush will nominate an individual of high integrity, intellect and experience,'' whereupon ''the Senate will have an opportunity to assess the president's nominee and ... to vote up or down.''

Will the last ponderous graybacks of the New Dealers' aging herd squander their remaining political capital attempting a last hurrah—lining up for a first-in-history filibuster designed to prevent the entire Senate from voting on the confirmation of a chief justice? It would be interesting to watch them try.

[From the San Diego Union Tribune, Sept. 8, 2003]

BATTLE OVER JUDGES—WITH ESTRADA OUT, SENATE MUST END TURMOIL

The battle between Democrats and Republicans in the Senate over President Bush's judicial nominees may be the stuff of interesting politics. But while this continuing controversy makes for a potentially potent campaign issue, it makes for bad government. After last week's withdrawal of Miguel Estrada for consideration to the U.S. Circuit Court of Appeals, antagonism in the Senate is only likely to grow.

Estrada, nominated to the appeals court more than two years ago, had become the focal point of the controversy because Democratic senators had used the filibuster seven times to block votes by the full Senate on his nomination. If the Senate had been allowed to vote on Estrada's nomination, a majority would have confirmed him. But under Senate rules, 60 votes are needed to break a filibuster in the 100-member chamber. The motions to end the filibuster never received more than 55 votes.

In addition to Estrada, Democrats have blocked the nominations of Alabama Attorney General William Pryor to the 11th U.S. Circuit Court of Appeals, which sits in Atlanta, and of Texas Supreme Court Justice Priscilla Owens to the 5th Circuit, which sits in New Orleans. Other filibusters are likely, including one over Bush's appointment of Los Angeles Judge Carolyn Kuhl to the 9th Circuit Court of Appeals, which covers California and other Western states and territories.

But while Republicans put forth strong and justifiable arguments over Democratic abuse of the filibuster, which allows a minority to thwart the will of the majority, antagonism over judicial nominees did not start with President Bush's nominees. While one could go back to President Reagan's 1987 nomination of Robert Bork to the U.S. Supreme Court and his ultimate rejection by a Democratic Senate, the real battle started during

the Clinton administration. During those years, even single senators, using a ''blue slip,'' could block nominees. At least two nominees to the court on which Estrada was to sit were blocked in this manner.

Overall, nominees during the first three years of the Bush administration and the first three years of the Clinton administration have been confirmed at about the same rate. So far, the Senate has confirmed 145 of Bush's appointments, 27 of them to the appeals courts, even though the discourse has grown more strident.

In the interest of good government, a few senators have talked of possible compromise, but nothing workable has yet been put forward. Any compromise obviously would have to involve the White House, and so far both the administration and senators from each party are standing their ground.

But what's at stake here is the independence of the federal judiciary and the public's respect for that branch's interpretation of the laws Congress passes and the president signs. If the Senate continues to fight over nominees, and nominees are viewed as more political, there is a danger that the public perception of judges who are eventually seated could be tarnished. That would be disastrous for our system of law and order. For this reason, and for others, both sides must end this rancor.

Mr. HATCH. These may be their reasons, but there are no excuses. At the mere suggestion of abandoning the Senate's tradition regarding judicial nominations when President Clinton was in office, former Democratic Leader Tom Daschle said, ''I find it simply baffling that a Senator would vote against even voting on a judicial nomination.'' That should be our response today as Senators on both sides of the floor.

Last week here on the Senate floor, the distinguished Senator from West Virginia made his case against returning to Senate tradition regarding judicial nominations. I respect him. I have a lot of regard for him, but I have to confess I was surprised that someone with such knowledge of the traditions and rules of this body would appear so willing to abandon tradition.

He equated the filibuster with the Senate itself. He equated filibustering judicial nominations with filibustering legislation and concluded that returning to our tradition regarding judicial nominations would be an attack on the Senate somehow. I would like to address each of these elements because I do not believe they can withstand fair scrutiny.

First, my friend from West Virginia argued that the Senate was designed from its very inception as a place of absolutely unfettered and completely unlimited debate. As such, he argues, any limitation of debate strikes at the very heart of the institution itself. Yet in the second volume of his own history of the Senate, he writes on page 115:

It is apparent that the Senate in the First Congress disapproved of unlimited debate.

The original rule IV prohibiting a Senator from speaking more than twice in any one debate on the same day without leave of the Senate remains in only slightly modified form as our rule XIX today. Even more significantly, rule VIII in the first Senate provided for a majority to proceed to a vote by calling the previous question.

Coupled with the Founders' expressed commitment to majority rule, these facts demonstrate that even with regard to legislation, the possibility of preventing final action through extended debate was not created by original design. It arose by default through dropping that previous question rule in 1806.

It would still be decades before Senators who sought to protect the institution of slavery would discover they could use this procedural loophole to their advantage and, of course, the filibuster was born. Its twin, however, was a parallel and ongoing effort at filibuster reform by which we have actively sought properly to balance the minority's right to debate and the majority's right to decide. The solution we seek today is part of that ongoing effort.

The Senator from West Virginia next equated filibusters of judicial nominations with filibusters of legislation. His policy arguments in favor of the filibuster, however, apply only to the legislative process. He said, for example, that without the filibuster ''there exists no leverage with which to bargain for the offering of an amendment. All force to effect compromise between the parties will be lost.''

I note that in previous debates about filibuster reform, such as in 1975, Democrats, such as the senior Senator from Massachusetts, Mr. KENNEDY, offered this very same argument against the filibuster. Still, this notion obviously applies where the Senate either fashions or effects legislation, but it is irrelevant to nominations.

The Senator from West Virginia has long been this Chamber's leading expert on our history and procedure. For that I compliment him. For this reason, though, I was disappointed that he would fail to make such an important distinction between legislative and judicial nomination filibusters, a distinction based on both historical fact and constitutional principle. In other words, there is a difference between the legislative calendar and the executive calendar in the Senate.

The Senator from West Virginia is not the first in the debate over these new judicial nomination filibusters failing to make this critical distinction. Other Democratic Senators, for example, want to use the cup-and-saucer analogy by which George Washington allegedly described pouring hot action from the House cup to cool in the deliberation of the Senate saucer.

As Jeffrey Toobin's recent analysis in the New Yorker magazine points out, however, not only is this story probably apocryphal, but the supposed exchange between Washington and Jefferson specifically focused on, you got it, legislation. In fact, that is the only context in which it makes any sense. If they said it at all, they were talking about the relationship between the two Houses within the legislative branch, not the relationship between the legislative and executive branches.

The distinction between legislative and judicial filibusters is a matter of historical fact. Every example offered last week by my friend from West Virginia involved legislation. He opened and closed his speech by evoking scenes from the classic film ''Mr. Smith Goes to Washington.'' I went back and checked the script. Senator Jefferson Smith in that movie, played by the great Jimmy Stewart, filibustered an appropriations bill. That is legislation.

The example the Senator from West Virginia said was most relevant—President Franklin Roosevelt's proposal to reorganize the judiciary—was also, you got it, legislation. That example is actually not relevant at all, however, because that 1937 legislation was not defeated by a filibuster. The most definitive study of President Roosevelt's plan by Mary McKenna concludes that it did not have majority support in the Senate at all. There was no need for a filibuster. Rather than the majority being stymied in its attempt to pass the bill, the majority—and an overwhelming majority at that—sent it back to committee.

To my knowledge, no Senators are today calling for an end to the legislative filibuster as a group of Democratic Senators did a decade ago. Nine of them, led by the Senator from Iowa, TOM HARKIN, and the Senator from Connecticut, JOSEPH LIEBERMAN, serve in this body today. They argued back then that all filibusters, including those of legislation, unconstitutionally infringe on majority rule. The two Senators from Massachusetts, EDWARD KENNEDY and JOHN KERRY, along with the Senator from California, BARBARA BOXER, the Senator from New Jersey, FRANK LAUTENBERG, the Senator from Maryland, PAUL SARBANES, the Senator from New Mexico, JEFF BINGAMAN, and the Senator from Wisconsin, RUSS FEINGOLD, voted against tabling that proposal.

I find it simply baffling that Senators who once supported abolishing the Senate tradition of legislative filibusters would today support establishing a tradition of judicial nomination filibusters—in other words, filibusters of nominees by the President on the executive calendar, not the legislative calendar.

Ignoring the distinction between legislative and judicial nomination filibusters is necessary for the argument of the Senator from West Virginia, as evidenced when he asked:

If we restrain debate on judges today, what will be next?

Yet for more than a century, filibusters of legislation coexisted nicely with our tradition of giving up-or-down votes to judicial nominations that reach the Senate floor.

Our experience under the current version of rule XXII shows that these two traditions can peacefully coexist. That rule, by the way, was born in 1917

after a filibuster of legislation. We have had the current version of rule XXII since 1975. From 1975 to 2002, the 94th Congress through the 107th Congress, only 3 percent of cloture votes were judicial nominations; 85 percent of those cloture votes passed, and all nominations subject to cloture votes were confirmed.

During the 108th Congress, 49 percent of cloture votes were on traditional nominations. None of them passed, and none of the nominations were confirmed.

I must say, with all due respect to my dear friend from West Virginia, that using the filibuster to defeat majority-supported judicial nominations has not been part of even modern Senate practice, let alone historic Senate tradition.

Let me repeat that. Using the filibuster to defeat majority-supported judicial nominations has not been part of even modern Senate practice, let alone historic Senate tradition.

In his op-ed piece in the Washington Post last week, the Senator from West Virginia ignored our tradition regarding judicial nominations in another way. He argued that by preventing a confirmation vote through a filibuster, the Senate had formally rejected these judicial nominations. How can it be a rejection of judicial nominations when a majority of Senators supports confirmation of each one of those people? Each nominee on whom cloture was not invoked remained on the Senate's executive calendar. Our own rule XXXI states that nominations that are ''neither confirmed nor rejected'' shall be returned to the President. Each of those filibustered nominations was, indeed, returned to the President when the 108th Congress adjourned. By definition, common sense, and our own rules, that means they were not rejected. My friend from West Virginia cannot on the one hand claim these nominations were rejected but on the other hand claim that these filibusters are about deliberation and debate.

Legislative and judicial nomination filibusters are different as a matter of historical fact because they are different as a matter of constitutional principle. Legislation belongs to the legislative branch under article I of our Constitution, while nomination and appointment belong to the President under article II. In Federalist No. 65, Alexander Hamilton wrote that the President would be the ''principal agent'' in appointments. The Senate has an important role of advice and consent that checks the President's appointment power, but we do not control the executive process any more than the President controls the legislative process. We recognize the difference between legislative and executive business when we leave legislative session and proceed to executive session to address nominations we have placed on the executive calendar. My friend from West Virginia, I think, ignored those differences.

Interacting with the executive branch is simply not the same as interacting within the legislative branch. And thus it would seem almost self-evident that procedures we use regarding our authority over legislation might not be appropriate when we affect the President's authority over appointments. We must preserve our tradition that recognizes this constitutional distinction between the executive and legislative branches, between our role of advice and consent on judicial appointments, and our authority over legislation.

The Senator from West Virginia, in my opinion, used an unfortunate analogy in attacking those who would return the Senate to its confirmation tradition regarding judicial nominations. Others, such as the Anti-Defamation League, have strongly objected to his reference to Hitler's Nazi regime for various reasons. My point here is not that. It is different. I object to his claim that returning to our tradition regarding judicial nominations would be an example of ''how men with motives and a majority can manipulate law to cruel and unjust ends.'' There is nothing cruel or unjust about the Senate returning to our traditional advice and consent role regarding judicial nominations.

The Constitution gives the Senate the authority to determine our procedural rules. It was pursuant to that authority that the Senate dropped the previous question rule in 1806, adopted a cloture rule in 1917, and amended that rule several times since.

It was also pursuant to that authority that the Senator from West Virginia aggressively used various strategies to change Senate procedures when he served as majority leader of this body. This includes approaches currently under discussion, such as seeking a ruling from the Senate's Presiding Officer. Though the Senator from West Virginia last week said such an approach would abandon the ''cloak of legality,'' it would simply be following a procedural path that he himself blazed. I was here for part of that.

The Senator from West Virginia said this approach ''seeks to alter the rules by sidestepping the rules, thus making the impermissible the rule.''

Yet the Senate operates on the basis of parliamentary precedents and traditions, as well as by our standing rules, a history my friend from West Virginia helped shape and has been recognized as helping shape those rules.

In 1977, for example, the Senator from West Virginia made a point of order that once cloture has been invoked, the Presiding Officer must rule dilatory amendments out of order. One Senator criticized this strategy as trying to change Senate rules by majority vote during the heat of the debate. That criticism sounds an awful lot like the criticism the Senator from West Virginia leveled last week against those who might take the same approach today. Nonetheless, the strategy succeeded when the full Senate tabled an appeal of the Presiding Officer's ruling in favor of the distinguished Senator from West Virginia.

In 1979, the Senator from West Virginia introduced Senate Resolution 9 to make various changes to rule XXII. He argued that notwithstanding rule XXII's cloture requirement for rules changes, a simple majority could change Senate rules at the beginning of a new Congress. He was right. The current Senate, he argued, is not bound by the dead hand of the past Senate. He threatened that if the Senate did not come to a time agreement for considering his resolution, he would attempt to proceed by seeking a parliamentary ruling.

Also in 1979, the Senator from West Virginia made a point of order that the Presiding Officer, rather than the Senate, as required under our rule XVI, ruled nongermane certain amendments to appropriations bills.

As in 1977, that strategy worked when the Senate tabled an appeal of the Presiding Officer's ruling in favor of the Senator from West Virginia. In 1980, the Senator from West Virginia also secured a helpful parliamentary precedent but from a different procedural direction. He wanted to achieve confirmation for an individual nominee on the Executive calendar.

At that time, while a motion to go into executive session was not debatable, a subsequent motion to proceed to a specific item on the Executive calendar was debatable. On March 5, 1980, the Senator from West Virginia made a single motion for the Senate both to go into executive session and to proceed to a specific nomination. When the Presiding Officer sustained a point of order against this motion, one Senator criticized this attempt to change procedure by majority vote. Nonetheless, the Senator from West Virginia appealed the Presiding Officer's ruling, which was his right to do, and the Senate overturned, supporting the distinguished Senator's majority rule change.

This strategy might be described by some, using the Senator from West Virginia's words last week, as altering the rules by sidestepping the rules. It certainly limited what he now insists would be unfettered and unlimited debate.

In 1987, the Senator from West Virginia secured a parliamentary precedent that obviously dilatory requests by Senators to be excused during a rollcall vote were out of order. This applied the same strategy he had used in 1977, getting the Presiding Officer to rule dilatory tactics out of order, in a new context. Each of these examples has similarities and differences with the current situation.

I offer this detail only to demonstrate that Senate procedures have been changed through parliamentary rulings as well as by formal amendments to the rules themselves. As my friend from West Virginia has demonstrated by pursuing each of these

strategies himself, the Senate can exercise its constitutional authority to determine its procedural rules either way.

He may certainly believe that the changes he sought were warranted while the change we may seek today is not. That is his right, and he can express that right in debate by voting against such a change. But that difference of opinion does not make his attempts to limit debate, even on legislation, right and just while any attempt to do so today on judicial nominations cruel and unjust.

We departed from our tradition of giving judicial nominations reaching the Senate floor an up-or-down vote only 2 years ago. The result has been the Senate's inability to do its constitutional duty of providing advice and consent regarding judicial nominations. We were able to give advice, I presume, but with regard to these 10 nominees we were never able to give consent or not consent, whichever the case may be. And that is done by a vote up and down. It demonstrates that the confirmation process is, in the words of the Washington Post, ''steadily degrading.''

Returning to that tradition of giving up-or-down votes for judicial nominations will not in the long run mean either party will always get its way. Both the executive branch and the Senate do change partisan hands from time to time. This standard, this tradition, knows no party and guarantees no partisan advantage. It applies no matter which party occupies the White House or which party controls the Senate. It would bind Republicans as well as Democrats and preserve our institutional traditions. I hope and believe, however, that restoring this tradition will, despite some Senators' threats to blow up the Senate, help restore some comity and good will to this body.

Returning to that tradition, which recognizes the difference between our authority over legislation and the President's authority over appointments, is not an attack on the Senate; rather, it affirms our traditions and the Senate's unique place in our system of separated powers. Returning to it both respects the President's authority over appointments and asserts the Senate's role of advice and consent, not just advice but consent as well.

A majority of Senators have been deprived of the right to give or not give consent by these irresponsible filibusters of judicial nominations on the Executive calendar. The deviation we have seen from that tradition, wherein a filibuster prevents confirmation of nominees with majority support, undermines the President's authority and distorts the Senate's role. Preserving both of our traditions—extended debate regarding legislation and up-or-down votes on judicial nominations reaching the Senate floor—will restore the proper balance.

There is nobody in this body who respects the distinguished Senator from West Virginia more than I do. I hope we can resolve these matters so both parties are bound by the correct tradition that we are not going to filibuster executive branch nominees and we will both preserve the right to filibuster over the matters we totally control on the legislative calendar. I would fight to my death to preserve rule XXII on legislation because I have also been in the minority from time to time, and it was the only way we could stop some things which would have been just terrible for this country. But there is a difference between the legislative calendar and the Executive calendar.

I respect my colleague from West Virginia. I can truthfully say I love him because he has been a strong force around here for years, but I hope he will look at some of these examples I have given and some of these thoughts I have and help us stop this impasse that is occurring in the Senate, not by preferring one party over the other but by binding both parties to treat Presidential nominations with the respect they deserve.

I have to say I never quite concentrated on this enough until these judicial nominations were filibustered in 2003 and 2004. I myself am to blame for not having thoroughly studied this until these problems arose, but I have now studied it. I believe it would be far better for our Senate to get rid of these animosities and threats to have nuclear warfare and bind both the Republicans and the Democrats in the Senate to do what is right, to give a vote up or down, so that we can not only give advise but consent as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, what is the time that I have under the order?

The PRESIDING OFFICER. The minority controls 14 minutes.

Mr. BYRD. Madam President, I ask unanimous consent that my time may be extended to a total of 35 minutes and that the final 5 minutes be under the control of the distinguished Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

FREEDOM

Mr. BYRD. Madam President, freedom is a fragile thing and never more than one generation away from extinction. It is not ours by inheritance; it must be fought for and defended constantly by each generation, for it comes only once to a people. Those who have known freedom and then lost it have never known it again. These words come from the lips of former President Ronald Reagan.

I rise today to discuss freedom, not the grandiose worldwide ''freedom talk'' one hears so much about. No. Not far-flung foreign policy goals, but, rather, my concern today is preserving our freedoms right in our own backyard at home.

Freedom, like a good garden, needs constant tending. One must watch for the worms in the wood. As Wendell Phillips, the abolitionist, orator, and the columnist, once said, ''eternal vigilance is the price of liberty.'' One must pay the price if one wants the blessing.

In a culture where sports metaphors are more common public parlance than historical analogies, our unique form of government, carefully restraining powers while protecting rights, presents a special challenge to maintain. The ''winning is everything'' philosophy so beloved by Americans may, without careful balance, obscure the goal of justice for all that must be the aim of a representative democracy. Demeaning minority views, characterizing opposition as obstructionist—these are first steps down the dark alley of subjugating rights.

Majorities can prevail by numerical force. They do not need protection from minorities. Yet some would have us believe that minority voices threaten the larger public good in the case of Presidential judicial appointments. The opposite is true. It is minorities who are most in jeopardy without fairness from the Federal bench. I am talking about those who are in the minority. The persecuted, the disadvantaged, the poor, the downtrodden—these are the very citizens who need the strong protection of an unbiased legal system.

Appointees to the Federal bench should be scrutinized for traces of ideological rigidity or allegiance to political movements which could cloud impartial judgment. I for one do not favor activist judges of any stripe. I do not think the proper role for a judge is to make new law from the bench. My own preference is usually for strict constitutionalists. Conservative judges can hold activist views, just as can liberal judges. Such labels tell us very little. What we should strive for on the Federal bench is blind justice; that is, justice absent a political agenda.

Judicial appointments must never be a sure thing for the bench simply because they please the majority party, whether that majority is Democratic or Republican. Federal judges enjoy life tenure. Remember that. Federal judges enjoy life tenure, making decisions of huge importance to the lives and the livelihoods of our citizens. Are they accountable to anyone? No. They are accountable to no one, and no President can fire them. No President can say: Go home, you are sick today.

It is ridiculous to suggest that mere superiority of numbers in the Senate should alone guarantee confirmation to a Federal judgeship. Such a claim reduces the constitutional advice and consent function of the Senate to a pro forma rubberstamping of Presidential judicial appointments whenever the President's party controls the Senate. We are talking about a separate branch of the Federal Government. We are talking about a separate branch of the

Federal Government here, which wields tremendous power.

There is no God-given right to a seat on the Federal bench—no God-given right. There is no God-given right to a seat on the Federal bench. Should a minority have only the recourse of delay to defeat a judicial candidate of concern, that minority is well within its rights to filibuster. In fact, the minority would be derelict in their duty if they did not filibuster. There is no shortage of candidates for the Federal bench, no shortage. Another name can always be offered. Our aim should be to select excellent judges acceptable across a wide spectrum of political views.

There was a time in this country when men and women of opposite political parties could reason together to achieve such goals. There was a time when the concerns of honorable men and women serving in this Senate received the respect of fellow Members of the Senate, even though they were in the minority. Now I am very sorry to observe the Senate and the country are so polarized—so polarized, so politicized—that nearly all dissent is discarded as obstructionist and politically motivated. ''Get out of the way'' is the cry. ''Get out of the way, get out of the way'' is the cry. Few take the time to consider other views.

If 41 Members of the Senate have objections to any judicial candidate, perhaps those objections should be heeded. Those are 41 Members. Perhaps that nominee should not serve. Forty-one Members, representing at the very least the people of 21 States, at the very, very least. Perhaps the minority is right. Perhaps the minority is right.

Senate service often reminds me of a game of ''red rover.'' We line up like two opposing camps and run as hard as we can at each other to score points. The talk show mavens keep the fires fanned, and through the din, honest discourse is nearly impossible. I worry. Oh, yes, I worry about a country whose major political pastime is not in finding compromise but, rather, in seeking conflict. The people are not well served. The courage to speak out about one's convictions is in scarcer and scarcer supply. Where, oh, where are the 21st century's profiles in courage?

President John F. Kennedy's Pulitzer Prize-winning book ''Profiles in Courage'' lionized public servants who did not fear to stand alone, like Senator George Norris of Nebraska. From 1806 to 1917, there was no ability to invoke cloture in the Senate. Why 1806? Because that was when the rule was dropped from the Senate rules asking for the previous question, which would shut off debate. Therefore, it was really from 1789 to 1917 that there was no ability to invoke cloture in the Senate. But, in 1917, a cloture rule passed after a filibuster by 12 determined Senators who opposed U.S. intervention in World War I. That debate began when President Wilson asked Congress for the authority to arm U.S. merchant ships against Germany. The House of Representatives passed Wilson's bill, the ''Armed Ship'' bill, by a vote of 403 to 13. But a handful of determined Senators who opposed U.S. intervention in World War I, including Republican George W. Norris of Nebraska, launched a filibuster with far-reaching consequences.

George Norris's filibuster killed President Wilson's bill, though Wilson resurrected its contents by Executive order shortly after the filibuster ended.

I was born during the administration of Woodrow Wilson.

Nebraskans and, in essence, all States, the entire nation, were consumed with rage at George Norris because of public disclosure that Germany had promised Mexico several United States States if Mexico would align itself with Germany in war against the United States.

Well, there was a huge din, a huge outcry. The New York Times called Norris and others ''perverse and disloyal obstructionists.'' Does that recall anything of present-day vintage to Senators? The New York Times called Norris and others ''perverse and disloyal obstructionists'' and editorialized that:

> . . . the odium of treasonable purpose will rest upon their names forevermore. The Hartford Courant called them ''political tramps.'' The New York Sun called them ''a group of moral perverts.'' The Providence Journal called their action ''little short of treason'' and the Portland Free Press said they should be ''driven from public life.''

Senator George W. Norris, the Nebraskan from the heart of America, suffered merciless abuse, vicious invective and public scorn, tarred by public sentiment, savaged by a strident press and the grip of a public filled with hate of Germany and the start of World War I. Yet he was and is an American hero. George Norris was ''fearful of the broad grant of authority'' that President Wilson sought to go to war, and resentful of the manner in which that authority was being ''steamrolled'' through the Congress.

Oh, how history repeats itself. How history repeats itself.

In Senator Norris's words:

> I will not, even at the behest of a unanimous constituency, violate my oath of office by voting in favor of a proposition that means the surrender by Congress of its sole right to declare war. . . . I am, however, so firmly convinced of the righteousness of my course that I believe if the intelligence and patriotic citizenship of the country can only have an opportunity to hear both sides of the question, all the money in Christendom and all the political machinery that wealth can congregate will not be able to defeat the principle of government for which our forefathers fought.

That was George Norris speaking.

When George Norris went home to explain why he had filibustered in the face of universal criticism, he sought an open meeting in Lincoln, NE.

''I had expected an unfriendly audience,'' Norris wrote, ''And,'' he said, ''it was with some fear that I stepped forward. When I stepped out on the stage, there was a deathlike silence.''

Senator Norris began, President Kennedy tells us, by stating simply: ''I have come home to tell you the truth.''

After more than an hour, the crowd in Lincoln, NE, Kennedy wrote, roared its approval.

Many have written extensively and with legitimate fear of what could happen if men without the courage of their convictions simply sat back and let themselves be swept away by a powerful majority, including George Orwell, writing of the horrors of power run rampant, of a world run by ''thought police'' who seek to control not just information but the speech and thoughts of every individual citizen. In ''1984'' Orwell recorded what life would be like under the thumb of Big Brother, with no autonomy of thought or speech.

George Orwell's fictional warning against Big Brother should encourage us all to ponder, to cherish and to protect our precious freedom—our precious freedom to think and speak freely. And the means to that end is protecting the right to dissent. Orwell said of liberty:

> If liberty means anything at all, it means the right to tell people what they do not want to hear.

That right will be in jeopardy if a misguided attempt to eliminate the filibuster succeeds.

Robert Caro, winner of the Pulitzer Prize for his renowned book about Lyndon B. Johnson, made Orwell's point in a letter to the Senate Rules Committee in June 2003.

> Many times in America's history the right of extended debate has been used to defend causes with which I profoundly disagree. Nonetheless, great care should be taken in placing new restrictions on that right. Senators who are considering doing so should understand that they will be taking a step that has significant implications for the balance of powers created under the Constitution, and also for another fundamental concern in a democracy: the balance between majority and minority rights.

Caro stressed that the Framers gave the Senate strong protections from transient public passions or executive pressures and that the Constitutional Convention kept the Senate small so that it would have, in Madison's words:

> [less propensity] to yield to the impulse of sudden and violent passions, and to be seduced by factious leaders into intemperate and pernicious resolutions.

Madison believed:

> . . . there are more instances of the abridgement of freedoms of the people by gradual and silent encroachment of those in power than by violent and sudden usurpations.

Madison was right. The loss of freedom will not come as a thunderclap. I say again, the loss of freedom will not come as a thunderclap from Heaven. Rather, if it goes away, it will slip silently away from us, little by little, like so many grains of sand sliding softly through an hourglass.

The curbing of speech in the Senate on judicial nominations will most certainly evolve to an eventual elimination of the right of extended debate.

And that will spur intimidation and the steady withering of dissent. An eagerness to win—win elections, win every judicial nomination, overpower enemies, real or imagined, with brute force—holds the poison seeds of destruction of free speech and the decimation of minority rights.

The ultimate perpetrator of tyranny in this world is the urge by the powerful to prevail at any cost. A free forum where the minority can rise to loudly call a halt to the ambitions of an overzealous majority must be maintained. We must never surrender that forum—this forum—the Senate, to the tyranny of any majority.

When Aaron Burr said farewell to the Senate, he urged the Senate to do away with the Senate rule that would close debate on the previous question. That previous question has seldom been used in the short time. And in 1806, the Senate carried out the will of Aaron Burr.

This house is a sanctuary; a citadel of law, of order and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution—

This Constitution.

—and if the Constitution be destined ever to perish by the sacrilegious hands of demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

On March 2, 1805, Aaron Burr stated that prophetic warning.

The so-called nuclear option, if successful, will begin the slow and agonizing death spiral of freedom, speech, and dissent, and it will be witnessed on this floor.

I yield the floor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. ENSIGN). There is 9 minutes 40 seconds remaining in total to the minority.

Mr. BYRD. I thank the Chair. I believe Senator CARPER is on his way. He wishes to have 5 minutes under the order following my remarks.

The PRESIDING OFFICER. The Senator from Delaware.

JUDICIAL NOMINATIONS

Mr. CARPER. Mr. President, I came to the floor today to talk about bankruptcy reform and the need to enact legislation dealing with bankruptcy reform. Before I do that, given the comments of our esteemed leaders, Senator BYRD and Senator HATCH, I feel compelled to say something first with respect to judicial nominations.

This 109th Congress, in my view, has begun with much promise. We have taken steps to begin to restore a sense of balance in our legal systems—the system of civil justice to make sure that little people harmed by big companies have a chance to band together and be made whole, and at the same time make sure that companies defended in class action lawsuits have a fair trial in a court where the deck is not stacked against them.

We are on the verge of passing significant and needed bankruptcy reform legislation. A conference on energy policy is taking place that will reduce our dependence on foreign oil, which has the promise also of increasing our reliance on renewable forms of energy and cleaning up our air, reducing sulfur dioxide emissions, nitrogen dioxide, mercury, and even carbon dioxide.

We have just reported out of the Finance Committee legislation that will better ensure that work pays more than welfare to help people make that transition from welfare to work. We are close to consensus on overhauling our postal system and taking the 1970s model created under the leadership of Senator STEVENS—who has joined us on the floor—to bring that into the 21st century.

There is much promise. There is much that can be done and ought to be done.

I fear that we are approaching a precipice that we may fall off—both parties, Democrats and Republicans—which is going to render us unable to achieve what I think would be a very fruitful session in this Congress. Reason must prevail here. Democrats will not always be in the minority; the Republicans will not always be in the majority; Republicans will not always hold the White House. We have to figure out some way to work through our divisions on the nomination of judges.

It is sort of ironic in the first term of President Bush's administration that 95 percent of his nominees were approved, compared to President Clinton's success rate of about 80 percent over the 8 years he served.

We need to be able to establish a system of checks and balances. We don't want to be obstructionists; we don't want one party to basically call the shots in the executive and legislative branches, and stack the decks in our courts.

I encourage our leaders, as I have done privately, Senator REID and Senator FRIST, to sit down—if they have done it, to do so again—and have a heart to heart.

I urge colleagues on both sides of the aisle who want this place to work, who want us to do the people's business, to work and find a way out of this bind.

BANKRUPTCY REFORM

Mr. CARPER. Mr. President, I want to take a few minutes to talk about bankruptcy reform legislation.

Much has been said about the bill that is before us. Let me say a few things as well.

Two years ago, roughly 83 Senators voted in favor of an overhaul of our Nation's bankruptcy laws. As you may know, under current law, people who do not have the ability to pay their debts can go into chapter 7 and their debts are largely forgiven. They may have to turn over some of their assets. That is chapter 7. If the court of bankruptcy believes a family has the ability to repay some of their debts, they go into chapter 13, if a payment schedule is worked out.

Concerns have been raised, justifiably, over the last decade or more that some people who have the ability to repay don't; they simply run up their debts and walk away from those obligations, and, frankly, leave the rest of us having to pay more interest on the consumer debt we acquire and to pay more for the goods and services we buy.

Bankruptcy laws exist for a good purpose. People do have disasters that come into their lives; marriages end, serious health problems occur, and people lose jobs. For those reasons, we have bankruptcy laws. Most people who file for bankruptcy are not trying to defraud anybody. They have a genuine emergency, or a huge problem in their life, and they need the protection of the bankruptcy court. That is why we have those laws.

There is a principle, whether you are for this bill or not, that I think we can all agree on. That principle is simply this: If a person or a family has the ability to repay a portion or all of their debts, if they have that financial wherewithal, they should repay a portion or all of their debts. If a family doesn't have that wherewithal to pay or begin repaying their debt, they should be accorded protection of the bankruptcy court. That is it; it is that simple.

The legislation we have before us is an effort to try to codify that principle, and to improve on the system today where too many people, frankly, have abused that system.

Much has been said about credit card banks and putting credit cards in the hands of people, encouraging them to use them. I have heard from my credit card banks. They would like to see this legislation adopted. I have heard more from my credit unions in Delaware than I have from the credit card banks, saying there is a problem and it is one that we need to address.

I want to consider for a moment what will happen, or continue to happen, if we don't enact this legislation.

No. 1, some people who ought to be repaying a portion of their debts do not.

No. 2, the folks who ought to be receiving childcare from parents who are not anxious to meet that obligation will not receive that childcare payment. Their biological parent will file for bankruptcy in an effort to avoid making that childcare payment, or to make an alimony payment. In fact, the way the current law is structured, when somebody is in a position to start paying their responsibilities or obligations, legal fees come ahead of childcare and come ahead of alimony. That is wrong.

Today, under current law, a wealthy individual in a State such as Florida or Texas can go out, if they are a millionaire, and take those millions of dollars and invest that money in real estate, a huge house, property, and land in the

State, file for bankruptcy, and basically protect all of their assets which they own because of a provision in Florida and Texas law. Homestead exemptions exist in other States as well. People can put money in trusts today and tomorrow file for bankruptcy and know that all the millions of dollars they put in those trusts can be protected from bankruptcy. That is wrong.

With the legislation we have before us, someone has to figure out that 2½ years ahead of time people are going to want to file for bankruptcy and be smart enough to put the money into a home, or an estate, or into a trust—not something you can do today—and file for bankruptcy tomorrow; or this year and file for bankruptcy next year or the next 2 or 3 years, or 3½ years. It is a much better approach. I, frankly, would like to see a cap on the homestead exemption. I voted for one yesterday. It didn't prevail. It should have.

What is in this current bill is a heck of a lot better than it is in the law that exists today. Here is how this bill would work. For people whose median family income is under 100 percent of median family income, those families for the most part will be able to file for bankruptcy and go into chapter 7 bankruptcy without a whole lot of fuss.

What is median family income? In my State, it is about $72,000. Nationally, median family income is about $65,000 for a family of four. It varies from there. It can be as low as $48,000 or $49,000 for a family of four in Mississippi, up to $80,000 in States such as Connecticut and others. But it is a range from the high forties to the low eighties for median family income.

For folks whose income is below 100 percent of median family income, they go into chapter 7 pretty much without a lot of dispute. However, for those families whose income is above median income, above $72,000, they would have to go through a means test. That is not a bad thing to do.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 26, which the clerk will report.

The legislation clerk read as follows:

A bill (S. 26) to amend title II of the United States Code, and for other purposes.

Pending:

Kennedy (for Leahy/Sarbanes) amendment No. 83, to modify the definition of disinterested person in the Bankruptcy Code.

Dodd (for Kennedy) amendment No. 69, to amend the definition of current monthly income.

Dodd (for Kennedy) amendment No. 70, to exempt debtors whose financial problems were caused by failure to receive alimony or child support, or both, from means testing.

Akaka amendment No. 105, to limit claims in bankruptcy by certain unsecured creditors.

Feingold amendment No. 90, to amend the provision relating to fair notice given to creditors.

Feingold amendment No. 92, to amend the credit counseling provision.

Feingold amendment No. 93, to modify the disclosure requirements for debt relief agencies providing bankruptcy assistance.

Feingold amendment No. 95, to amend the provisions relating to the discharge of taxes under chapter 13.

Feingold amendment No. 96, to amend the provisions relating to chapter 13 plans to have a 5-year duration in certain cases and to amend the definition of disposable income for purposes of chapter 13.

Talent amendment No. 121, to deter corporate fraud and prevent the abuse of State self-settled trust law.

Schumer amendment No. 129 (to Amendment No. 121), to limit the exemption for asset protection trusts.

Durbin amendment No. 112, to protect disabled veterans from means testing in bankruptcy under certain circumstances.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on amendment No. 70.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I want to talk about the most vulnerable people who go into bankruptcy; they are single women with children. There is $95 million a year in unpaid alimony and child support. When these women marry—or divorced women end up in bankruptcy, they end up in the harsh provisions of this legislation. That is wrong. These are people who are trying. They are working hard. They are playing by the rules, and they wouldn't be in bankruptcy if their husbands had paid. Why we ought to treat them harshly as this bill does is wrong.

This amendment which I have introduced with the Senator from Connecticut, Senator DODD, makes sure that we are going to treat them fairly under this provision.

I hope the Senate will accept it.

I yield 30 seconds to the Senator.

Mr. DODD. Mr. President, I thank the Senator from Massachusetts. He makes a point. Next year, more than 1 million single women will file for bankruptcy in the United States. Most of them are women with children, significant numbers of children. This is far too harsh for this constituency.

We urge adoption of the Kennedy amendment. It is only right and only fair and ought to be done to provide relief to these people under the bankruptcy system.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I understand the vote is about to start. I yield back all of our time.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to Kennedy amendment No. 70.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced —- yeas 41, nays 58, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—41

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

NAYS—58

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

NOT VOTING—1

Clinton

The amendment (No. 70) was rejected.

AMENDMENT NO. 69

The PRESIDING OFFICER. There will now be 2 minutes of debate on Kennedy amendment No. 69.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the next 2 votes be 10 minutes each.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, workers in this country have hit a perfect storm with the decline in manufacturing, the outsourcing of jobs, and the increasing of part-time work. This has fallen disproportionately on African Americans and Latinos. The unemployment rate for Latinos has increased by 40 percent in recent years. It has increased by 31 percent with African Americans. If you are a Latino homeowner, you are 250 percent more likely

than White homeowners to go into bankruptcy. African-American homeowners are 690 percent more likely to go into bankruptcy.

All this amendment says is that those individuals can still go into bankruptcy, but they will not be caught up in the harsher provisions of this bankruptcy act. It would be enormously unfair, unjust, and discriminatory. That is what this amendment does.

The PRESIDING OFFICER. Who yields time?

Mr. MCCONNELL. I yield back the time on this side.

Mr. KENNEDY. 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 question is on agreeing to Kennedy amendment No. 69.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—41

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

NAYS—58

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

NOT VOTING—1

Clinton

The amendment (No. 69) was rejected.

AMENDMENT NO. 105

The PRESIDING OFFICER (Mr. GRAHAM). There will now be 2 minutes of debate equally divided on the Akaka amendment No. 105.

The Senator from Hawaii.

Mr. AKAKA. Mr. President, the bankruptcy bill does not allow consumers to declare personal bankruptcy, in either chapter 7 or chapter 13, unless they receive a briefing from an approved nonprofit credit counseling agency within 6 months of filing for bankruptcy.

About one-third of all credit counseling consumers enter into a debt management plan. In exchange, creditors can agree to offer concessions to consumers to pay off as many of their debts as possible. However, most credit card companies have become increasingly unwilling to significantly reduce interest rates for consumers in credit counseling.

My amendment would prevent unsecured creditors, primarily credit card issuers, from attempting to collect accruing interest and additional fees from consumers in credit counseling.

As a show of support for the effectiveness of sound consumer credit counseling, especially as an alternative to bankruptcy, credit card issuers should waive the amount owned in interest and fees for consumers who enter a consolidated payment plan. Successful completion of a debt management plan benefits both creditors and consumers. For many consumers, paying off debt is not easy, and my amendment seeks to help these struggling individuals.

I encourage my colleagues to support this amendment to help consumers enrolled in debt management plans to successfully repay their creditors, free themselves from debt, and avoid bankruptcy.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the amendment of the Senator from Hawaii is dressed up as a credit counseling amendment, but it would cause havoc in our modern consumer credit system. It requires that a lender stop charging interest on the outstanding debt of any bankrupt debtor who participates in a debt management program. The practical result is that lenders are forced to either waive further payments on an extension of credit or have the debt discharged in bankruptcy. This will not be good for the consumer, the borrower.

This is a sweeping change in modern banking practices. We have had no hearings in the Senate Banking Committee. I ask my colleagues to oppose this amendment.

The PRESIDING OFFICER. The question is on agreeing to Akaka amendment No. 105.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—38

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

NAYS—61

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

NOT VOTING—1

Clinton

The amendment (No. 105) was rejected.

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

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BOND. Mr. President, I ask unanimous consent the Senate now stand in a period for morning business until 2 p.m., with the time equally divided between the two leaders or their designees.

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

Mr. BOND. Mr. President, I ask unanimous consent to be permitted to speak in morning business up to 25 minutes.

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

SOUTHEAST ASIA

Mr. BOND. Mr. President, in past weeks I have come to the floor to report on the tremendous job that America and other allies did in assisting relief from the devastating tsunami that struck in Indonesia, Malaysia, and Thailand last December. Later I spoke about the very promising development of broad-based support for moderate Islam among leaders in Southeast Asia. The constructive work being done there is an extremely important counter to the Wahabiism strain of Islam teaching which subverts the teaching of a peaceful religion to promote terrorist attacks on any and all

who are regarded as infidels. In addition, Hadhari, or ''civilization'' Islam, preaches fair and equal treatment for women and tolerance of views of other religions.

As former President Richard Nixon detailed in one of his last books before his death, developing strong and supportive relationships with moderate Islamic countries is of critical interest to the United States. He had warned of the dangers of radical Islam teachings even before we experienced the overseas terrorist attacks against Americans in the 1990s, culminating in the massive attacks of September 11, 2001, on our homeland.

In this area, former President Nixon was prescient, and laid out an important principle for us to follow today. With Southeast Asia and its large Muslim population as the second front in the war on terror, we have the opportunity through constructive engagement to help those countries win their wars on terrorism without the need for massive military actions such as we have undertaken in Afghanistan and Iraq to root out governments that harbor terrorists.

As President Bush said in his State of the Union speech, fostering and encouraging the development of democratic, free societies throughout the world is not only an humanitarium imperative for us, it is also in our own security interest because free governments, democratically elected, as much less likely to engage in aggressive military action against their neighbors, and threaten peace and security in the world. In addition, with the proper diplomatic, economic, and strategic support, we can help those governments as they fight to eliminate the threat of terrorist activities within their borders.

In a region previously dominated by monarchies, communist rule, and autocratic governments, democracy is making strides in Southeast Asia. As in all evolutions of democratic societies, the progress is not without its stumbles, its reverses, and occasionally undesirable results from the democratic process. Southeast Asia still has significant problem areas where democracy and human rights are not flourishing. As Natan Sharansky has said in his book The Case for Democracy, and in his presentation to Senators here in the Capitol on February 9th, the difference between a free society and a fear society can be measured by the town square test. Can a citizen go to the town square and express opposition and criticism of the government without fear of reprisal?

Southeast Asia has glaring examples of the fear society, which is the opposite of the free society in Sharansky's terms. Communist North Vietnam has shown some interest in economic development and some tolerance of free markets, but it is far from a free society. According to the measurements of Freedom House—which views political and civil freedoms—other countries regarded as not free are Laos, Cambodia, and Brunei. The worst offender in the Freedom House rankings, and in my own view, is the state of Myanmar, which we previously knew as Burma. That country has gained international attention for its arrest, imprisonment, and abuse of Aung San Suu Kyi, that country's leading political opposition leader.

Most recently, Thailand—among the most free and open societies in all of Asia—overwhelmingly re-elected the government of Prime Minister Thaksin Shinawantra, a very successful business man with strong managerial skills. Personally, I was relieved to see that apparently there was no weight given to his opponent's charges that I personally had lobbied Thaksin and convinced him to allow the introduction of biotechnology through genetically modified food products into Thailand. In truth, on my visits to Thailand with world renowned plant biotechnology leader, Dr. Roger Beachy of the Danforth Plant Science Center in Saint Louis, Missouri, we and our Ambassador discussed with the Prime Minister making available the resources of our bio-technology regulatory agencies in the U.S. so that Thai scientists and officials would have the technical capacity to make judgments for themselves about the safety of proposed biotechnology plantings and GMO food products, which hold tremendous promise to cure crop and plant disease in Southeast Asia, to feed the countries throughout the world and perhaps deliver vital vaccines to less developed countries.

In Indonesia, the voters have elected a new President Susilo Bambang Yudhoyono who is committed to operating a corruption-free government, dedicated to recognition of human rights, free markets, and civilian control of the military with full protections for the civilian population. It is worth noting that the President, popularly known as SBY, participated in the last International Military Education and Training program—IMET—with our military at Fort Leavenworth, KS before Congress effectively cut off IMET participation for Indonesia military leaders. He also received a Masters' Degree from Webster University in Kansas City, MO. In Malaysia, the newly-elected Prime Minister Abdullah Badawi—of whom I spoke previously—noting his support for Hadhari Islam, has taken steps to rid his government of the favoritism and corruption of the previous administration, which sapped the economic growth potential of that very prosperous country.

In the Philippines, popularly-elected President Gloria Arroyo is facing challenges within her own government, but she has been democratically elected and brought major change in the life of that country following the corruption and abuses of Ferdinand Marcos.

Singapore has a new Prime Minister, Lee Hsien-Long, who is the son of the long-time ruling figure in Singapore, Lee Kuan Yew, now known as the Minister Mentor. Although some have charged that it is highly unlikely that the people of Singapore could choose a candidate not associated with the Ruling Party, I believe that Singapore would pass Natan Sharansky's test of a free society rather than a fear society on the town forum test. In addition, Singapore has been one of our staunchest allies strategically, economically, and in the war on terrorism. When the United States military forces were booted out of the Philippines, Singapore responded by developing a deep-water port where our large warships could dock and refuel and resupply. They moved very swiftly to crack down on terror rings including the very dangerous Jemaah Islamiyah, JI, when they discovered threats against United States and Australia Embassies in that country. In addition, we have recently completed the first Free Trade Agreement in Asia with the Singaporeans.

In addition to supporting democracies and free societies and fighting terrorism, the United States has a very significant strategic interest in Southeast Asia. As many leaders in that region have told me, privately, they are concerned that the United States active engagement and association with those countries is essential to stop China from extending hegemony over the region. China has made many moves recently economically to gain control over the markets of Southeast Asia with offers of free trade and other inducements. In addition, China has flexed its muscle in the region by military maneuvers in the South China Sea to lay claim potentially to the significant petroleum reserves in that area.

States of Southeast Asia, notably Indonesia, Singapore, and Malaysia, control the important Malacca Straits through which one quarter of all the shipping in the world passes, and one half of the petroleum products carried by ocean-going vessels pass.

The Southeast Asia nations which have been generally supportive of the United States stand in contrast to the People's Republic of China, which has long opposed our efforts against terrorism and may be engaging in proliferation of nuclear and missile technology. The influence of China can be seen already in support for lifting United Nations sanctions and the Arms Embargo of China. There are many who feel that China may be building military capability which could be a threat to world peace and security as well as to the United States—all the more reason to prevent excessive China influence or control in Southeast Asia.

In addition to our strategic interests, Southeast Asia is a very important economic trading partner for the United States. Malaysia is our tenth largest export market and ASEAN has passed Japan and is now the United States' third largest trading partner; two-way trade stands at $120 billion. In 2003 United States exports to Singapore

were $19 billion, to Malaysia over $17 billion. Although Thailand with $6.8 billion imports from the United States, the Philippines with $5.4 billion, and Indonesia with $2.8 billion, are relatively smaller, they also offer opportunities with economic progress to be much more significant trading partners with us.

Farmers in Missouri and throughout the Midwest felt the severe pain of the collapse of the Southeast Asia markets in 1997 and in 1998. Our previous $12 billion a year agricultural exports in the mid-1990s dropped to almost nothing during that period. The impact of that on farm prices in the agricultural heartland was extremely harsh. Farmers suffered significant losses of income, and rural communities dependent upon agriculture felt the pain, everywhere from equipment dealers to retails stores. Missouri farmers have been very relieved to see the economies, and, thus, the demand for agricultural products recover in the ASEAN region.

At the same time we have good economic ties with the region the United States has image problems that cannot be ignored. The problems with the United States start with its support for Israel in its battle with the Palestinians and its invasion of Afghanistan and Iraq. This has brought great concern in Muslim countries and the former Malaysian Prime Minister, Mahathir Mohammed—the first Muslim to come to his United States Embassy to register his sympathies after the September 11, 2001 attack—became an even harsher critic of the United States when we took the battle against terrorism to Afghanistan and then to Iraq. Previously, I and other members of the Senate, had heard him deliver in the mid-1990s stinging criticism of the United States and other peoples with light skin—especially Jews—for currency manipulation which he felt had brought on the collapse of the Thai baht which triggered the Asian economic collapse and problems with his currency in Malaysia.

There is also the inevitable reaction against a very large and powerful country when we have a presence in the region such as we did during the tsunami relief efforts. At the time we deployed our aircraft carrier strike force with the helicopters and marine copter ship with troops to the region, a very good friend of America in the region told me the United States needed to ''tiptoe'' coming into the region. I noted to him it was difficult to tiptoe when you have to bring an aircraft carrier strike force with helicopters into a region to provide the airlift and the personnel needed for vital relief. I noted his concerns and passed them along to our forces who did leave as soon as the mission was completed.

Our friend also suggested the U.N. should play a larger role or at least be perceived as playing a larger role. Upon investigation I learned that might be rather difficult. The first appearances of the U.N. officials in the region were to hold news a conference to criticize the United States for doing nothing. As we would say back home, they came with big hats but no cattle.

Some 17 days after the tsunami, the first U.N. operation, a World Health Organization medical team, showed up and our airlift transported him to the site where they set up operations. The fact remains that the United States and allied governments in the region and volunteer forces were the ones who arrived at a critically important time to save the lives of perhaps tens of thousands who lived through the tsunami but were threatened by death and disease or starvation.

Within 6 days of the tsunami, Navy and Marine helicopters were delivering lifesaving food, water, and medical attention to isolated areas all along the west coast of northern Sumatra.

I might also say there is a perceived racist undertone and some resentment of the United States. As I mentioned, in 1996 I was part of a Senatorial delegation attending the Asia Pacific dialog conference in Malaysia. Unfortunately, we had to sit through a 25-minute attack by Prime Minister Mahathir who placed the problems of his country at the feet of Jews, Americans, and other Caucasians who he said did not care about brown-skinned people—obviously, a very unpleasant message. At least one of my colleagues vowed he would never travel halfway around the world again to hear such accusations.

The larger problem, of course, in the Muslim region has been the United States support of Israel and the conduct of the wars in Afghanistan and Iraq where many are concerned that the United States is conducting war on Islam, not on radical terrorists. These concerns have been partially and somewhat temporarily relieved by the extraordinary tsunami relief effort, but the scholars in the region, people whose judgment I respect, think this improvement will not last long without significant continuing efforts.

As I have said, the most obvious problem we have with Indonesia has been a congressionally imposed restriction on military assistance in Indonesia. These restrictions were first imposed in response to abuses by the Indonesian military, TNI, during the 1990s in brutally repressing the unrest in East Timor, leading to the establishment of a separate state in East Timor. Subsequent human rights abuses occurred in other areas under the authoritarian rule of President Suharto. But with a newly elected President SBY, who is working to gain control over the military and install appropriate respect for human rights and civilian control of the military, the time has come, in my view, to assist in that effort by reestablishing full participation for the Indonesian military and our International Military Education and Training Program.

Secretary Rice has taken the first step by clearing the way for resumption of full IMET participation by Indonesia. ''IMET for Indonesia is in the United States' interests,'' Secretary Rice said to the Committee on Foreign Affairs. I agree. I look forward to working with her and this body to expand the opportunity for IMET training.

Not only, however, are we missing an opportunity to help Indonesia on its path to appropriately constrain military force, the sanctions have raised strong reactions from democratically elected members of the Indonesia parliament. Defense Minister Sudarsono stated that if the United States does not change its position, Indonesia would look elsewhere for assistance and alliance. Some members of parliament urged him not to solicit or accept the United States' assistance, but their position, fortunately, still does not appear to be the controlling view in the Government of Indonesia.

Some opponents of increased IMET participation for Indonesia are charging that the TNI was responsible for murders of Americans at the Tamika Mine. Our FBI, our own U.S. FBI, was deployed to the area and conducted an investigation in conjunction with the Indonesian forces. The FBI has concluded that the murders were committed by an Indonesian separatist who thought he was killing TNI members. That individual is still being sought, and we hope he will be brought to justice in the near future.

Obviously, I think that expanding military-to-military relations with Indonesia is the first and most important and obvious step we can take to improve relations. Beyond that, however, there is work to be done to work more closely with our friends in southeast Asia in providing technical assistance and tsunami relief efforts to help rebuild water infrastructure and other needed facilities.

Another tremendous concern is itself a compelling reason for the United States to pursue an active foreign policy with Indonesia; that is, the threat to democracy from political groups that may espouse an extreme form of Islam. After the fall of the Suharto regime, an authoritarian government, the people of Indonesia have embraced democracy. In Congress, Indonesia does not get the credit it deserves for moving so quickly down the path of democratic government.

With the election of President SBY, Indonesia just experienced its fourth peaceful democratic transfer of power. Voter participation in Indonesia, approximately 80 percent, should be the envy of us in the United States. However, the voice of extreme Islam is working through the political system, through activists and politically oriented groups, to spread their influence. Their presence is small but growing. In 2004, 79 percent of their voters cast their vote for a secular party, but that is down from 84 percent in 1999.

There are groups such as the Justice and Prosperity Party that is growing by taking a hard line against the corruption of the past administration, and

it has participated in tsunami relief and other charitable activities. The party is gaining influence among those in Indonesia. But there are also elements in the party in the past who have expressed a desire for an Islamic State and feel that Islam suffered a setback as well as Indonesia suffering an economic setback during the secular dictatorship of Suharto in the ensuing years.

There is a danger of the spread of radical Islam, whether it be in the madrasas or the political arena, the anti-western strain of this intolerant form of Islam, or other activities. I believe, as I have outlined previously, there are courageous and determined people in Indonesia fighting to ensure the future of the country as a democracy and one that values the principle of freedom known in secular government. We must remain engaged so their struggle prevails.

The bigger picture requires active engagement with Southeast Asian countries seeking the path of democracy, human rights, and economic freedom. In my view, the best forms of assistance we can provide are economic participation by American companies in the region and educational exchanges. These were actually identified by the U.S. Agency for International Development Woods Report of the early 1990s which said that economic investment, trade, and education were the most effective ways of strengthening the relations and building the economies of developing countries. I believe that report was accurate, and I think it is the path for our participation in Southeast Asia.

For example, in my recent visit to Malaysia, many leaders we spoke to were concerned that fewer Malaysian students are now studying in the United States than in the past. I believe this educational exchange is extremely valuable for us as well as for students. I hope we can encourage more American colleges and educational foundations to increase their support for educational exchanges.

As noted above, however, I believe we must deal with military restrictions and use our IMET programs and other collaborative efforts as a means of assisting Indonesia, as well as other countries in the area, to work in a constructive fashion with our military in observing human rights and civilian control in that country. Not only is it in the interest of the people in Southeast Asia, I believe it is in our economic interest, our strategic interest, and in our interest in fighting the war against terrorism.

CHINA'S ENACTMENT OF ANTISECESSION LAW

Mr. BOND. Mr. President, the Peoples Republic of China recently enacted an antisecession or antiseparation law, the intent of which may believe would restrict the Taiwanese people's freedom of speech and allow the Chinese Government to use force to annex Taiwan if China suspects separatist speech making or any other separatist activities on the island. This law has caused a tremendous uproar in Taiwan. Taiwan's foreign minister and chairman of Taiwan's Mainland Affairs Council have both denounced the law as a unilateral act on the part of China. It will cause tensions in the Taiwan Strait to rise and may have serious consequences for future Taiwan-China relations.

I agree with the assessment that China is seeking to change unilaterally the status quo in the Taiwan Strait. China seems to have abandoned any attempt at future dialogue between the two sides and seeks to impose this law on the 23 million people of Taiwan. Chinese assumptions are that Taiwan and China are now already unified and that China has jurisdiction over Taiwan, especially the authority to serve penalty and punishment to Taiwanese people and their leaders. China has ignored the fact that Taiwan and China have been two separate political entities since 1949 and neither has jurisdiction over the other. China, therefore, has no right to carry out punishment to Taiwanese people and leaders whenever China sees fit.

Predictably, Taiwanese people are outraged by the latest Chinese act and ask the international community to oppose China's new law. So far, with a wait-and-see attitude, the international community has remained quiet on the subject. It is important that we not appease China.

Inaction of the international community will send a dangerous signal and will further encourage China to indulge in its political rhetoric and war-like actions. We must single out the dangers inherent in China's new law, whose enactment will totally discourage the Taiwanese people from seeking a peaceful solution to the Taiwan issue. Now is not the time to empower China to prepare for military conflicts across the Taiwan Strait, just as the EU stands to do by lifting the Chinese Arms Embargo.

In this era of global terrorism and natural catastrophes, war is the last thing we would like to see in the Asia-Pacific region. I urge all Americans and the international community to oppose China's enactment of the antisecession law, and I plead with both Chinese and Taiwanese leaders not to resort to any extreme measures and not to make a bad situation worse. Both sides should allow tempers to cool and keep dialogues open.

May the Lunar New Year bring good will to the Chinese and Taiwanese peoples and may they continue to maintain peace and stability in the Taiwan Strait.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, it is my understanding we are in morning business until 2 o'clock.

The PRESIDING OFFICER. Yes, we are.

BANKRUPTCY REFORM

Mr. DURBIN. Mr. President, for those who do not follow the debate in the Senate very closely, this 500-page bill has been the subject of our debate and discussion for the last 2 weeks. It is likely to be concluded today with a vote, and the vote is likely to be in favor of this legislation.

It is about bankruptcy law. It is something everyone dreads the thought of, that you would reach a point in life where you have more debts than assets, and finally say: I have to go to court and ask for help.

But bankruptcy is an institution created by Western civilized society to respond to a terrible injustice. There was a time in this world when if you were deeply in debt, you ended up deeply in jail—debtors' prison—put in an unconscionable situation where you could not pay your bills and, once in prison, did not have any place to turn.

We decided that in a more civilized society we would acknowledge the fact that through misfortune or miscalculation some people reach a point where they do not have enough money to pay their bills. And if they are prepared to go into a bankruptcy court, file extensive documentation to establish their debt and their assets, the court may consider discharging them in bankruptcy. As a result of that discharge, people lose most of what they have on Earth, but also walk away from their debts and have a chance for a fresh start, for a new day.

That is something that has been in the law for a long time. The law has been amended over the years. We have chapter 7, where you walk out of the bankruptcy court with your debts behind you. Chapter 13 is where an individual tries to repay, says to the court: I don't want to be found to be bankrupt. I am willing to work out with my creditors a repayment schedule. That is what chapter 13 does. So you try to take a limited amount of money and pay it out over a period of time.

For years and years the credit card companies and big banks have said: We want to change this law. Too many people are going to bankruptcy court. The numbers range from 1.3 million to 1.5 million each year, but there is no doubt the numbers are going up.

The credit industry argues: Too many people are in bankruptcy court, and as a consequence, we should limit the opportunity for bankruptcy. So for almost 10 years they have been pushing for this bill—year after year after year.

Today their prayers will be answered. This bill will pass the Senate. It will glide right through the House of Representatives and be signed by the President in a hurry. What it will mean is that many of the people walking into bankruptcy court are now going to face new hurdles, new obstacles, new paperwork, new legal costs to file for bankruptcy, and at the end of the day many of them will not have their debts erased. Many of them will find they have to continue to keep paying on those debts for a long period of time.

It concerns me because we ought to ask the most basic question: Why are more people filing for bankruptcy? Is it the fashionable thing to do? I do not think so. Years ago, a member of my staff and her husband had a bad business experience. When she came to tell me they were going to file for bankruptcy, she was in tears. She was not happy about that at all.

People I have known who have gone through bankruptcy are not proudly announcing to their friends: Well, I had a great day in bankruptcy court. These are people who are a little embarrassed, a little ashamed of what they had to go through. They certainly did not want this to happen.

And why do people end up in that predicament? Well, for a lot of reasons. If you look at the No. 1 reason people give for why they go to bankruptcy court today, it is because of medical bills. And that stands to reason. The cost of medical care in America has gone up dramatically year after year. If you are not prepared for a major illness in your family, you might face major bills that you will never be able to repay. Sometimes the hospital or doctor will write it off and say: I know I am never going to collect it, and that is the end of the story. But sometimes they will not.

Sometimes the bills just keep coming in and the bill collectors keep calling and the harassment on individuals and their families increases to a point where some people say: That is it. I can't do it. I will never be able to pay off this debt. And they go into bankruptcy court.

So here we are in a nation with a health care crisis, in a nation where each day fewer people have health insurance, a nation where each day the cost of health care is going up, a nation where businesses are struggling to keep health insurance on the owners of the business and their employees, where labor unions are at their wit's end about how to provide the basic benefit package and still increase take-home pay, here we are in a certifiable American crisis when it comes to health care. And what is the response of your Government? To deal with the problem? No, we are going to deal with the victims.

The victims of today's health care crisis will now go into bankruptcy court and face a mountain of paperwork they have to fill out. If they don't do it right or they fall into the categories in this bill, they are not going to have their debts discharged. They are going to walk out of that court as deeply in debt as when they walked in.

The credit card industry says it is only fair because all these people going to bankruptcy court evidence some moral failure in America. There is just something wrong today with people and their values.

Excuse me, but being preached to by the credit card industry about moral values is a little tough to swallow. This is the same industry that in 2003 made record profits. All that plastic we carry in our wallets, they are making a bundle off those credit cards—so much so that they will inundate anyone who is up and taking nourishment with more credit card solicitations. Go home tonight and look in the mailbox. Maybe it won't be tonight. Trust me, by tomorrow there will be another solicitation for another credit card. And you think to yourself: Am I that important that they keep coming to me and offering me a credit card? The answer is, sadly, no. They are ready to offer credit cards to anything moving.

In my office one of my attorneys has a little boy who is 3½ years old. Tyler must be a pretty special little baby. He got his first credit card solicitation at the age of 3½. I told that story in Rockford, IL, last week, and one of my business friends said: I have you on that one. My 9-month-old daughter received a solicitation.

So here is this industry dumping credit cards on America, oblivious to whether the people who are receiving them are good credit risks, hoping you will sign up for that credit card, hoping you will pay 16 percent, 20 percent interest, hoping you will make the minimum monthly payment so they will eat you alive with interest payments, and ready to accept the possibility that they guessed wrong, ready to accept the possibility that you won't be able to pay your bills. They will write that off, or at least they did until this bill came along. Now they want that credit card debt to trail you for a lifetime. That is what this bill is all about.

You say to yourself: Is it a moral failure in America that has led to more bankruptcies? No, it is the lack of health insurance; it is the fact that people who worked hard and thought they had the world by the tail end up seeing their jobs outsourced when they are 55 years old and have nowhere to turn. Those are the realities of what leads people to bankruptcy court.

This bill says an awful lot about the Senate of the United States. It is the second most important bill of the Republican leadership. Did they bring us a bill to deal with the health care crisis? No. Did they bring us a bill to deal with all the jobs being outsourced in America, the Tax Code that creates rewards and incentives to send jobs overseas? No. Did they deal with a bill to fund our schools? Remember that Federal mandate called No Child Left Behind, that unfunded mandate President Bush and the Republicans in Congress refused to fund? Did they offer a bill to help struggling schools? No.

What did they come with? They came with the granddaddy of special interest bills, this 500-page gift to the credit industry in America. So we offered some amendments. We said: If there is going to be a real debate, let's have real choices.

The first amendment I offered said I am going to give you a category of bankrupt people I think should get a break from the terrible provisions in this bill. The category is the people we salute every night on the news, who many of us give speeches praising, who our thoughts and prayers are with every day—the men and women in uniform serving America. These are men and women who a year and a half ago had a nice little restaurant or a nice little business and went to their Guard meetings once a month and then were activated and, once activated, found out it wasn't for 30 days, it was for 18 months. While they were gone, their little business disintegrated, and now they face bankruptcy. Where was the moral failure of these soldiers? Where was the moral failure of the guardsmen and reservists who volunteered to go overseas and fight for my freedom and my home? I don't see any moral failure there.

When we brought the amendment to the floor and said, give these servicemen a break, by a vote of 58 to 38, with every Republican voting against it, that amendment was defeated by the same Congress that gives all of these stirring speeches about how much we love the men and women in uniform. Where were they when the men and women in uniform needed a vote on this bill? They were AWOL, that is where they were.

Senator KENNEDY said: What about the family in medical crisis? Should we not say to them at the end of the day, if you go through bankruptcy court, we will protect your home? We will give you a home to go to, and not an expensive home, a $150,000 home. You can buy a nice small home in Springfield, IL, for $150,000. You get up to Chicago or Washington or Boston or New York or Los Angeles, where does $150,000 take you? Not very far. But Senator KENNEDY said: If it is a medical crisis that brought them to bankruptcy, shouldn't at the end of the day they have a roof over their heads? Rejected—another virtual partisan rollcall. The credit card industry said: No exceptions.

Bill Nelson of Florida said: What if they steal your identity, run up all these bills, take you to court, and you are trying to discharge bills you didn't even enter into? Shouldn't you get a break then if they have stolen your identity? No, rejected. The credit card industry said: Go to court; fight it out in court with your lawyer. We are not going to give you that break.

I am going to offer an amendment, my last amendment, to the relief of

many on the Republican side. I know they are tired of my amendments and tired of hearing me. I am about to lose my voice, so maybe it is time to end the debate. But the last amendment is their last chance. Here is what the last amendment says: If you are a disabled veteran and if the debts that brought you to bankruptcy were primarily incurred while you served in the active military, we are going to give you a break in bankruptcy court.

Who are the men and women I am talking about? Come to Bethesda, come to Walter Reed, and I will introduce you to them. These are guardsmen and reservists, active military, marines, soldiers from our Army, sailors who have now gone overseas and who have lost a leg or an arm or both hands or suffered a head injury. These are people who gave everything we could ask of them for this country. What profiles in courage they are. When I go out there, I am just amazed. They are fighting to get that prosthetic limb, fighting to get back on their feet. Most of them more than anything want to go back and fight with their units, but they are headed home. Some of them are headed home to a financial situation that is going to be another challenge to them. Some of them won't be able to get through it. They are going to file for bankruptcy. They are going to ask to maybe put those bitter memories of the war behind them and to put their debts behind them and give them a chance to start their lives again.

My last appeal to the Republican side of the aisle, which has steadfastly stood in ranks for the credit card industry and has been unwilling to stand for our men and women in uniform, is this: For the disabled veterans, those who incurred debts while they were at war, can you give them a break?

That is the last amendment I am going to offer. I am glad to have the disabled veterans organization of America supporting this amendment. I was happy to have all the military groups and families supporting my earlier amendment. I hope those who are following this debate on both sides of the aisle will consider those families who are affected. They have considered the credit card industry. There is a great deal of sympathy for the credit industry in the Senate. Our heart goes out to these poor people, the credit card industry swamping us with cards making billions of dollars. What can we do to help?

How about a 500-page bill, they say? Any time soon? Sure. It will be the second item on the Senate agenda. We will make sure we get this big present out of the way so you can put it on your list of accomplishments in Congress this year. For the people who will end up in bankruptcy court, most of whom never wanted to be there, the nightmare just got worse. What you are going to face because of this bill is a lot more in terms of obstacles, paperwork, and costs.

Instead of dealing with the problems that force people into bankruptcy, we are going to punish the victims. That is the priority of this Congress. It doesn't speak very well for why we are here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Mr. President, I understand we are in morning business.

The PRESIDING OFFICER. The Senator is correct.

OUR NATION'S FISCAL SITUATION

Mr. VOINOVICH. Mr. President, I rise to tell my colleagues that our Nation's fiscal situation is bad and likely to get worse. On an apples-to-apples basis, today's projected 10-year deficit is $500 billion deeper than CBO's September 2004 report.

When plausible assumptions about the path of current tax and spending policies are used, the official baseline deficit of $855 billion balloons to a deficit of $5.8 trillion. Even with a strong economy, annual deficits are likely to hover between $400 and $500 billion for the next 5 years. After that, the combination of tax cut extensions and growing entitlement costs threatens an upward spiral of deficits and debt that cannot be sustained.

But even this sobering assessment of Federal finances may be overly optimistic. Assuming continued, but declining, spending for the global war on terrorism increases the 10-year deficit by $418 billion—we read yesterday where the Secretary of Defense and General Myers said there is no real prediction about how long we are going to have to spend money in Iraq—assuming that discretionary spending keeps pace with economic growth (rather than inflation) increases the 10-year deficit by $1.4 trillion; even assuming that expiring tax cuts are only extended for 5 years increases the deficit by $306 billion; assuming continuation of recent adjustments in the alternative minimum tax (AMT) increases the deficit by $642 billion, freezing appropriations, including defense, the war on terrorism and homeland security, would save $1.3 trillion. However, if combined with the extension of tax cuts and continued AMT relief, the budget would still remain in deficit every year, totaling $2.2 trillion over the next decade.

We must also remember that current Medicare payment increases for doctors and hospital expire at the end of 2005. The American Medical Association, AMA, reports that physicians would see a 31 percent decrease in payments from 2006–2013. If we do not act, senior citizens will face serious problems obtaining health care; but it will cost tens of billions to continue reimbursing doctors and hospitals at the current rate.

The fiscal policy decisions we make in the 109th Congress will largely determine whether the U.S. economy and the Federal Government will generate the financial resources to meet these challenges or whether we will force our children to choose between massive tax increases or draconian cuts in public services.

I am not exaggerating when I use the term ''draconian cuts in public services.'' President Bush submitted a budget that proposes to substantially reduce or eliminate more than 150 government programs. In its annual ''Budget Options'' report, the Congressional Budget Office identifies 285 government programs that may need to be reduced, eliminated or substantially modified in order to control future spending. Federal budget analysts are already warning that current trends in Federal spending for health care, education, income security and even national defense simply cannot be sustained for much longer.

I will never forget meeting with Dan Crippen before he left CBO, and him telling me that by 2030, almost all of the GDP we are now spending at this time will be used to pay for Medicare, Medicaid, and Social Security, leaving no money for anything else but that.

I recognize that some of my colleagues consider any government program wasteful spending and would willingly enact all the proposals suggested by both President Bush and the CBO.

Nevertheless, back on planet Earth, mayors, county commissioners, governors and yes, even Senators, are expected to provide at least basic public services, as well as maintain a social safety net, enhance economic development, promote civic improvements and even support cultural enrichment.

Realistically, we are not going to eliminate economic development programs such as Community Development Block Grants as President Bush has proposed. Nor are we going to seriously consider CBO's suggestion to narrow the eligibility for VA disability compensation to only pay for disabilities related to military service. Everyone in this body knows that very few of these proposals are new. Some of them were first suggested by President Reagan 25 years ago. Congress has had ample opportunity to consider all of them and has never shown a willingness to enact any of them.

The bitter truth is that regardless of which party is in control, Congress has never shown an appetite for fiscal restraint. We are always much more likely to spend like drunken sailors than to save our constituents' money the way we would save our own.

I believe the reason we have never been able to control our appetite for spending is that most Members of Congress and the public simply do not understand the long term implications of short term spending decisions. Our constituents consistently ask for increased spending on existing programs as well as money for new programs. Congress almost always says yes to these requests because the true cost of these is so well hidden, they seem like minor investments for major public benefits. Unfortunately, the truth is that long after any public benefit has faded, our

children and grandchildren will still be paying the bills for our generosity.

It is time to recognize that we are in a fiscal hole and to stop digging. The sooner we get started, the better. Prompt action will reduce the need for drastic steps and give individuals more time to adjust to any changes. It will also allow the miracle of compounding to start working for us rather than against us. Perhaps most important, prompt action will help us to avoid a dangerous upward spiral of debt and inflation that would ultimately harm every American.

We can begin by insisting on truth and transparency in government financial reporting. More than 200 years ago, Thomas Jefferson wrote to his Secretary of the Treasury, ''We might hope to see the finances of the Union as clear and intelligible as a merchant's books so that every member of Congress, and every man of any mind in the Union, should be able to comprehend them, to investigate abuses, and consequently to control them.'' Today, consistent and accurate financial information can seem as elusive as it was in Jefferson's time. But these fiscal risks can be managed only if they are properly accounted for and publicly disclosed.

That is why I have introduced the ''Truth in Budgeting Act.'' This bill has three simple goals.

First, it will help guarantee that Congress, the President and the American people have the information necessary to make intelligent decisions regarding our long term financial commitments.

Second, it will force Congress to focus more attention on the long term obligations instead of short term cash flows.

Finally, it will provide Congress the time to make fiscal policy with due deliberation rather than unseemly haste.

In order to guarantee that Congress, the President and the American people fully understand out long term liabilities, this legislation will require the Federal Government to gradually shift to accrual accounting for insurance programs; require CBO and the Joint Committee on Taxation to compute and report the change in Federal interest expense associated with any legislative action, and require the President to submit an annual report to Congress on the fiscal exposure the Federal Government faces including debt, financial liabilities, financial commitments, financial contingencies and other exposures. GAO would then be required to report to Congress on the extent and quality of the liability exposures presented by the administration.

I sincerely believe this knowledge will fundamentally change attitudes about Government spending. When my constituents come to me asking for this or that new spending program, I always tell them how much we will have to borrow to pay for the program they want and as ''Is this really worth imposing that kind of debt on our grandchildren?'' In almost every instance, their answer is ''NO.'' The American people do not want to saddle their children and grandchildren with unsustainable bills; but they do not always clearly recognize the long term costs of some very attractive programs. When we fully explain these costs, our constituents will usually choose fiscal prudence.

My legislation will force Congress to focus more attention on long term obligations rather than short term cash flows by extending discretionary spending caps and the PAYGO rules for five years; creating a new Budget Act point of order requiring supermajority roll call votes to put Congress on record when it circumvents discretionary spending caps or PAYGO rules; putting more teeth in the annual budget resolution by directing the Budget Committee to set 302(b) levels and make efforts to exceed 302(b) levels subject to a 60-vote point of order—that will be a difficult one to get through with our appropriators, I am sure—and requiring CBO and the Joint Committee on Taxation to assess whether the budgetary consequences of legislation beyond the existing 10-year budget window are significantly greater than the cost inside the window. In other words, we pass things, and then we do not talk about what exposure we are going to have 10 years down the road. In the event that CBO or the Joint Committee on Taxation concludes the costs in real terms of legislation in the second decade after enactment would be more than 50 percent greater than in the first decade, it would be required to note this fact in cost estimates, and a point of order would lie against legislation causing these changes in outlays or revenues. This would mean Senators would have to acknowledge with a recorded vote the fact that they have been informed about outyear effects of their spending decisions.

I recognize these provisions are no substitute for genuine commitment to fiscal discipline. Discretionary spending caps and pay-go rules were in place between 1997 and 2002, but Congress still managed to spend money, as I referred to earlier, like drunken sailors. Nevertheless, it is important to require rollcall votes when we attempt to bust the budget and, under the right circumstances, they can be very effective.

Over the past 2 years, there have been 79 attempts to waive the Congressional Budget Act and increase spending. All but two of them were defeated. If these attempts at fiscal irresponsibility had been successful, Federal spending over the next 10 years could have increased by more than $1.5 trillion.

Also, my bill will give Congress the time it needs to properly deliberate financial decisions by moving the Federal Government to a biennial budget process. There are 21 States, including my own, that use biennial budgeting. In Ohio, we supplemented the biennial budget with a second annual budget review. The biennial process provides time for deliberation and, more importantly, effective oversight.

CBO reports that last year, Congress appropriated over $170 billion for 167 programs that had expired authorizations. Do you hear me: 167 programs, $170 billion, and the authorizations had expired. This is not the fault of the appropriators. No one expects them not to fund veterans health care or other critical programs due to expired authorization. It is the fault of a process that simply does not leave us enough time to adequately review and reauthorize important Government programs. We need to give ourselves time to do the job right, and biennial budgeting will help get us there.

According to the best information I have, our agencies today in the Federal Government spend about 60 percent of their time every year on the budget and appropriations. There is no time for congressional oversight because of the fact that we have these annual budget marathons we go through. I am hoping—working with Senator DOMENICI and other Members of this body—that we can bring the 2-year budget issue to the floor of the Senate and once and for all put it into law.

The Truth in Budgeting Act I have introduced will provide Congress and the American people important financial management tools. Like any other set of tools, they are only as useful as the skill and dedication of the craftsman using them. However, just as a carpenter or auto mechanic is more productive when working with quality equipment, Congress can be more effective if we provide ourselves with better quality information.

Finally, before I close, I want to share my concerns regarding Federal revenues. Many of my colleagues would like to extend until 2010 all or some of the tax cuts enacted in 2001 and 2003. Moreover, they propose to extend these tax cuts without offsetting the revenues lost to the Federal Government. The various proposals could increase the 5-year deficit by at least $90 billion and possibly as much as $306 billion. This is unacceptable.

Personally, I do not see a need to extend these tax cuts at this time. Now is the time for patience, not haste.

Most of the current tax provisions do not expire until 2010, and even the reduced rates on dividends and capital gains do not expire until 2008. I have consulted with experts such as Alan Greenspan and Pete Peterson who agree the stimulative effect of these cuts helped the economic recovery but also agreed we should pay for extending them with offsets. It is time to pay for them with offsets.

We do not know yet the impact of Federal revenues if we do Social Security reform. We still do not know the full cost of the prescription drug benefits we approved in the 108th Congress. Nevertheless, all of us must concede that most experts agree that if we keep going the way we are, spending for

Medicare, Medicaid, and Social Security will greatly exceed 18 percent of GDP, as I mentioned, by the year 2030.

We still do not know the full cost of the ongoing war on terror at home and particularly overseas. I predict we will be committed not just to Iraq and Afghanistan but to Kosovo and Bosnia for a long time, which will increase our national security costs dramatically.

I have spent time with our reservists who have returned home, and many of them say their equipment is in bad shape because of the war. There are so many uncertainties in dealing with our national security that we ought to be careful about reducing our revenues.

We will not know the strength of the duration of the current economic recovery for at least another year, but I will say this: We recently learned that last year we had GDP growth of 4.4 percent. That is the best we have had since 1999. There is no question that we are back on track. And the real issue is, do we need to continue to stimulate the economy with the tax reductions we passed in 2001 and 2003, particularly 2003 when we felt we needed to give the economy a front-end loaded stimulus that would make sure we would see an upturn.

We will not know until 2008 or 2009 how Federal revenues will be impacted by baby boomers becoming eligible for early retirement. Most experts expect slower economic growth and slower growth in Federal revenues. It is a real question, with the retirement of our baby boomers: Will we have the workforce we need to keep economic growth moving forward?

Finally, and perhaps more important, the President's Commission on fundamental tax reform will not complete its work until July. Once they send their report to Treasury Secretary Snow, he may very well recommend sweeping tax reform proposals for us to consider in 2006. It makes little sense to me to rush into making current tax policy permanent only to redo all our work in less than 18 months.

Under these circumstances, it seems more prudent to wait until next year before extending tax cuts enacted in the 2001 or 2003 tax reform bills. However, if my colleagues absolutely insist on extending these tax cuts, then we should at least offset their costs by reducing spending or increasing revenues elsewhere in the budget. In other words, the budget resolution is going to be calling for something like $70 billion or $80 billion of tax cuts that will be handled in reconciliation, which basically says they can be passed by the Senate with 51 votes.

My suggestion is, just eliminate them from the budget resolution. If extending the lower tax on dividends or extending the lower tax on capital gains is something in the best interest of the American people, then let's require 60 votes to get that done, just as we did last year when we did not have the continuation of three tax cuts for marriage penalty, lower marginal rates, and for the child tax credit. We did not have a budget. We did not have reconciliation language, but we extended those three because it was the feeling of this body and the House that they were needed to continue to respond to the needs of the American people.

My basic yardstick for Government spending, including tax cuts, has always been is it necessary and is it affordable? I believe the tax cuts in 2001, 2003, and 2004 were both. Nevertheless, we face a different situation today, and I will no longer support tax cuts until they are fully offset. The Nation's gross domestic product grew by over 4 percent in 2003 and 2004. Unemployment has dropped from 6.6 percent to 5.2 percent, and new jobs have been created every month for the last 21 months. Even Alan Greenspan at the Federal Reserve has noticed the turnaround and started to raise interest rates. The tax cut medicine worked, and it is time to stop before we overdose on too much of a good thing. I know some people want to make our recent tax cuts permanent, but I cannot support doing so at this time.

Any additional tinkering with the Tax Code should only be done as part of a comprehensive reform package designed to return Federal revenues to their 60-year average of 18 percent of the economy.

In closing, I tell my colleagues and constituents that I valued my status last year, while I was running for reelection, as a deficit hawk. I have always placed fiscal responsibility at the top of my agenda and never supported spending or tax cuts unless I thought they were necessary and affordable.

The legislation I have introduced will help us more effectively determine what fiscal policies really are necessary and affordable. I encourage Senators to support this legislation. I also encourage them to show patience regarding making the tax cuts permanent. With all the uncertainties facing us, it does not make sense to deal with the issue now.

I will finish with these words: One of the requirements I have used during my political career to decide whether we should do something is the issue of fairness. How in the world can we ask the American people to flat fund domestic discretionary spending, deal with the problem of Medicaid and many of these other issues, and at the same time say to them, and by the way, we are going to extend these tax cuts we have had? It does not make sense. It is not fair. It is not right. It is not acceptable.

I am hoping that my colleagues understand that to put ourselves in the position where we are going to have probably one of the most stingy budgets we have had since I have been in the Senate, at the same time we cannot continue these tax cuts and extend them or, for that matter, make them permanent.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. VOINOVICH. Mr. President, I ask unanimous consent that at 2 p.m. today the Senate proceed to votes in relation to the next two amendments; provided further that all votes after the first be limited to 10 minutes each. The amendments are Leahy amendment No. 83 and Durbin amendment No. 112.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

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

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

Mr. LEAHY. Mr. President, I understand there will be a vote on the Leahy-Sarbanes amendment at 2 o'clock; is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 83

Mr. LEAHY. Mr. President, this amendment Senator SARBANES and I have pending is going to moderately preserve the current conflict-of-interest standards for investment banks. They might safeguard the integrity of the bankruptcy process. Senators understand that well before I was born we have had in bankruptcy law provisions to cover conflicts of interest of investment bankers. For some reason this was taken out in the pending legislation. The pending legislation would eliminate the now 67-year-old conflict-of-interest standards that prohibit investment banks which served as underwriters of a company's securities from playing a major advisory role in the company's bankruptcy process.

In other words, it means if you had an investment bank that advised or underwrote securities for WorldCom or Enron at a time when, as we now know, they were cooking the books—they were the ones who advised them how to do this before bankruptcy—then they could be hired to represent the interests of the defrauded creditors during the bankruptcy proceeding.

It is kind of the fox guarding the chicken coop. You advise one of these

companies how to cook the books, make a lot of money—it is going to defraud a lot of people—but if the bubble breaks and you go into bankruptcy and the people who have been defrauded try to get a little bit of money back—try to get back some of the money they are owed, even though it is going to be cents on the dollar, people who had their pensions built into this, had their retirement built into this—you could have the very same investment banker saying, ''We will represent you. We are the guys who got you in the problem in the first place, where you lost all your pension and the money you are owed, but we will help you get it back.''

It is ironic that firms that had a part in the company's deception could stay on the payroll in bankruptcy and profit handsomely from their own fraud.

For 67 years we said, wisely: Enough. You can't do that. Nobody seemed to have a problem with it, but for some reason, that prohibition was dropped here. I have to ask what kind of message are we sending to investors and pensioners who are suffering from corporate misdeeds and ensuing bankruptcies if we allow this to happen. They deserve better.

What we have suggested, what a lot of people seem to support, is: All right, we won't put the total blanket prohibition in, but we will at least say that if you were involved within 5 years of this bankruptcy you cannot come back and handle the rights of the creditors. In other words, if you are the one who lost all the money of the creditors, you lost all the money of the pensioners, you lost all the money of the investors, you are not the one who is going to come back in and say now you can pay us to get back what little bit is left.

The National Bankruptcy Review Commission, agreeing with us, strongly recommended that Congress keep the current conflict-of-interest standards in place. They said:

> Strict disinterestedness standards are necessary because of the unique pressures inherent in the bankruptcy process.

Of course there are. Of course there are pressures. The larger the bankruptcy, the greater the pressures. Which assets do you sell? Which assets do you keep? Which assets should go to the creditors? What we want to do is monitor section 414. I would like to go back to the blanket prohibition, but we said at least make it 5 years. In fact, Fifth Circuit Court of Appeals Judge Edith Jones, well respected, very conservative member of the Fifth Circuit and member of the Bankruptcy Commission, urged Congress to remove section 414. She said:

> If professionals who have previously been associated with the debtor continue to work for the debtor during a bankruptcy case, they will often be subject to conflicting loyalties that undermine their foremost fiduciary duty to the creditors. Strict disinterestedness, required by current law, eliminates such conflicts or potential conflicts. . . . Section 414, in removing investment bankers from a rigorous standard of disinterestedness, is out of character with the rest of this important legislation and should be eliminated.

Then the chairman of the Securities and Exchange Commission wrote to us. He said, speaking for the Commission:

> We believe that it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.

Think of what he said. A lot of investors, since Enron and WorldCom, have lost confidence. If we perpetuate the things that perpetuate that lack of confidence, loss of confidence, then shame on us. We can easily go in with a very commonsense exclusion of conflicts of interest.

How can any one of us go back and say to our constituents: We were in favor of keeping the people who advised and got the enormous bankruptcy in the first place. Now we are in favor of putting them in to guard what little bit of assets the creditors and the investors might have. Try to explain that to somebody who is trying to recover because they relied on what these same people had said and now they are trying to recover their life savings, or trying to recover their business which itself may go bankrupt because of money owed them. Try to convince them that we are trying to protect you by letting the same people who made this mess now be responsible for getting payment to you.

The amendment Senator SARBANES and I offer is a modest compromise. We limit it to 5 years before the bankruptcy. It only applies in the 5 years immediately preceding the bankruptcy. It doesn't say you are precluded forever, as current law does. But it says you are precluded if you were involved within 5 years of this collapse. Then you are not going to be involved in getting people back their money.

With Enron and WorldCom and others, this is the last time in the world that the Senate should weaken conflict-of-interest standards. Certainly the investors and the public are not going to like it. What we are trying to do, we are trying to get us back in line with the SEC and others, to restore public confidence in financial transactions with greater accountability and increased investor protection.

As I said earlier, I will yield to the distinguished senior Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I again commend my able colleague from Vermont for coming forward with this amendment. I am very pleased to join with him in cosponsoring it, and I urge its adoption upon our colleagues.

First, I want to underscore, the Senator from Vermont has tried very hard to work out a very reasonable proposal. The existing law prohibits the investment bankers from playing any part in the bankruptcy, if a company for which they were an investment banker goes into bankruptcy.

They can't come along and then become an adviser to the bankrupt company. The rationale for that is strong because often the investment bankers, because of their own activity, need to be examined and reviewed, and they may be held accountable.

The argument has been made: Well, suppose they were the investment banker 20 years ago and they have not had a connection with this company since. Why should they be precluded from possibly being taken on in the bankruptcy? Recognizing that argument, Senator LEAHY's proposal has a 5-year ban period. In other words, if you have been the investment banker in the last 5 years, you can't then be engaged when the company goes bankrupt. The investment bankers are intimately involved in the financial structure of the company. Often, they can be held liable in one way or another for what has taken place. Certainly there is the appearance of impropriety if the very people who were the investment bankers to this company in the recent period, and they then go bankrupt, and they are taken on subsequent to bankruptcy.

Only a while back, Gretchen Morgenson, writing in the New York Times—I ask unanimous consent that the statement be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1)

Mr. SARBANES. She said:

> Do you think Solomon Smith Barney, the brokerage firm that bankrolled WorldCom and advised it on a business and financial strategy that failed rather spectacularly, should be allowed to represent the interests of the company's employees, bondholders and other creditors while WorldCom is in bankruptcy?

She said:

> If you answered no, you win a gold star for common sense and for knowing right from wrong.

Elizabeth Warren, a very distinguished professor at Harvard Law School, commenting about this problem—I understand that financial firms are eager to earn money from bankruptcy advice. There is often very big money to be made. They have been lobbying this issue very hard. This doesn't preclude any investment banker, just the ones who have been providing advice to the company leading up to the company's failure, with the Leahy modified amendment, just in the 5-year period prior to the bankruptcy.

Elizabeth Warren says:

> There is reason why the professionals who have worked for a business that collapses into bankruptcy are not permitted to stay on. The company must go back after bankruptcy and reexamine its old transactions. Having the same professionals review their own work is not likely to yield the most searching inquiry.

Obviously, having the same professionals review their own work is not likely to yield the most searching inquiry.

Arthur Levitt, former Chairman of the SEC, said:

> I haven't read a single argument made by the investment banks that would persuade

me that the prohibition should be changed. What we are talking about is a significant potential conflict of interest, and I think it is outrageous that investment banks would even try to go down this road.

This prohibition has existed in law ever since 1938, which has been reaffirmed by the Bankruptcy Study Commission, by all the experts in the field, those who have no vested interest in the outcome, who come objective, people who are in favor of modifying the bankruptcy law, people not in favor of it, but they all come together and agree on this issue.

Professor Warren said:

It is not a provision to ensure investor confidence, or to enhance protection for employees, pensioners, or creditors of failing companies. This is a provision to enrich an already wealthy interest group, nothing more.

It needs to be understood that an investor bank that advised on the creation of a company's capital structure before a bankrupt filing may itself be exposed to potential liability. If it is brought in to work out the deal that permits the company to emerge from bankruptcy, you are opening the door that they may be tempted to prefer the creditors who have a potential claim against the investment bank. Don't open this stable door.

The Leahy proposal is an extraordinarily reasonable proposal. It actually is more accommodating than what the experts are telling us because the experts want to continue the complete ban which exists in current law. But what Senator LEAHY has done in this proposal—this is a 5-year ban. If you are earlier than the 5 years, you can be considered, but if you are within the 5-year period, it is not going to be permitted because we don't want to run the risk of the inherent conflict of interest which would exist in that situation. When a company goes bankrupt, you need a fresh look at what is going on, and you won't get that from the same investment bankers who represented the company before.

This is the point that has been made by the Securities and Exchange Commission. In fact, as Chairman Donaldson expressed his personal view at a hearing—Senator LEAHY and I wrote to him, and he conveyed to us the view of the Commission, saying how cautiously Congress should proceed before loosening any conflict of interest restrictions.

He noted that they were aware of the arguments of proponents of the amendment that the current statutory exclusion is too broad because it covers firms that participated even if it was years ago and the firms have no further involvement with the debtor. However, if the exclusion is eliminated entirely, we are concerned that the general protection in the statute would be insufficient. It may well be insufficient. That is the problem.

I plead with my colleagues, given what we have been through and given what investors have suffered across the country, given the effort now to eliminate these conflicts of interest, don't open this major door to a very severe potential conflict of interest, and the way that we are going to do that is to support the Leahy amendment.

I urge it upon my colleagues.

Mr. WARNER. Mr. President, I rise today in support of Leahy amendment No. 83 to the bankruptcy reform bill. This amendment offers a commonsense solution to a thorny issue in current bankruptcy law.

While I am a strong supporter of the underlying bankruptcy reform bill, and look forward to voting for its final passage, I am concerned about section 414, which amends the disinterested person definition in the conflict of interest standards of the Bankruptcy Code.

Under current law, a firm that serves as an underwriter for a company's securities may be barred absolutely from advising that company in a bankruptcy reorganization. The existing law is probably an over-broad response to the fear of potential abuse. For example, there is little potential for abuse in bankruptcy if an investment bank underwrote securities for a company 50 years ago, and had not done so since.

Section 414 in this bankruptcy reform bill essentially does away with the current ban, and gives bankruptcy judges the discretion to determine whether the investment bank has a material adverse interest. If the judge decides that no such adverse interest exists, then the bank would be able to advise the debtor company, even if some of the bank's advice helped contribute to the bankruptcy in the first place.

In my view, while the current law is over-broad, section 414 swings the pendulum too far the other way. I agree with the Chairman of the Securities and Exchange Commission, William Donaldson, who recently wrote to Members of the Senate on behalf of the SEC. Chairman Donaldson noted that the SEC believes that ''it would be a mistake to eliminate the exclusion in a similar one-size-fits-all manner at a time when investor confidence is fragile.''

Given the number of high-profile corporate bankruptcies over the past few years, it is paramount that we completely avoid the slightest appearance of impropriety in these bankruptcies. In my view, the Leahy amendment achieves that goal, and strikes a solid middle ground in this important debate.

On the one hand, the amendment does not attempt to reinstate the overly broad current law. On the other hand, the amendment recognizes that it is important for Congress to set out some uniform policy in this area rather than leaving it up to hundreds of individual bankruptcy judges.

Instead, the Leahy amendment imposes a reasonable 5-year waiting period under which an investment bank that underwrote securities for a company would be precluded from advising that same company in bankruptcy.

In my view, this amendment would protect against any possibility of abuse, would safeguard against the appearance of impropriety, and would not unduly harm investment banks from rightfully participating in the bankruptcy process.

Mr. LEAHY. Mr. President, am I correct that the yeas and nays have been ordered?

The PRESIDING OFFICER (Mr. CHAMBLISS). The yeas and nays have been ordered. There is 2 minutes equally divided prior to the vote.

Who seeks time?

Mr. CRAIG. Mr. President, I think this side is prepared to yield back the time.

Mr. LEAHY. Mr. President, I think both Senator SARBANES and I have made our case. We just want to eliminate this blatant conflict of interest.

We yield back our time.

The PRESIDING OFFICER. Time has been yielded.

The question is on agreeing to amendment No. 83.

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

The bill clerk called roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—44

Akaka	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Jeffords	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Collins	Kohl	Sarbanes
Conrad	Landrieu	Schumer
Corzine	Lautenberg	Snowe
Dayton	Leahy	Specter
Dodd	Levin	Voinovich
Dorgan	Lieberman	Warner
Durbin	Mikulski	Wyden
Feingold	Murray	

NAYS—55

Alexander	DeMint	Martinez
Allard	DeWine	McCain
Allen	Dole	McConnell
Baucus	Domenici	Murkowski
Bayh	Ensign	Pryor
Bennett	Enzi	Roberts
Bond	Frist	Santorum
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Stabenow
Chafee	Hatch	Stevens
Chambliss	Hutchison	Sununu
Coburn	Inhofe	Talent
Cochran	Isakson	Thomas
Coleman	Kyl	Thune
Cornyn	Lincoln	Vitter
Craig	Lott	
Crapo	Lugar	

NOT VOTING—1

Clinton

The amendment (No. 83) was rejected.

AMENDMENT NO. 112

The PRESIDING OFFICER. Under the previous order, the next vote will be on Durbin amendment No. 112.

There are 2 minutes equally divided. Who seeks time?

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, this amendment will exempt from the bankruptcy bill's means test those disabled veterans whose indebtedness occurred primarily during a period of military service. They have given us their arms, their legs, very important parts of their lives.

After 2 weeks of debate, after scores of amendments that have failed, I ask my colleagues, just once, in the consideration of this bill, whether they will take into their consideration those who, because of misfortunes they could not control, have had their lives seriously changed. We need to honor these veterans who have given so much to America.

If the Senate owes a great debt to the credit card industry, don't we owe a greater debt to these brave soldiers? I ask you to vote aye.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I agree with the Senator from Illinois. I think the Congress agrees with him, the House agrees with him. I ask the Senate to support the amendment.

I ask for the yeas and nays.

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

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced —- yeas 99, nays 0, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—99

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	Martinez
Allen	Dorgan	McCain
Baucus	Durbin	McConnell
Bayh	Ensign	Mikulski
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Obama
Brownback	Grassley	Pryor
Bunning	Gregg	Reed
Burns	Hagel	Reid
Burr	Harkin	Roberts
Byrd	Hatch	Rockefeller
Cantwell	Hutchison	Salazar
Carper	Inhofe	Santorum
Chafee	Inouye	Sarbanes
Chambliss	Isakson	Schumer
Coburn	Jeffords	Sessions
Cochran	Johnson	Shelby
Coleman	Kennedy	Smith
Collins	Kerry	Snowe
Conrad	Kohl	Specter
Cornyn	Kyl	Stabenow
Corzine	Landrieu	Stevens
Craig	Lautenberg	Sununu
Crapo	Leahy	Talent
Dayton	Levin	Thomas
DeMint	Lieberman	Thune
DeWine	Lincoln	Vitter
		Voinovich
		Warner
		Wyden

NOT VOTING—1

Clinton

The amendment (No. 112) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 129

Mr. MCCONNELL. Mr. President, I ask unanimous consent that we now proceed to a vote in relation to the Schumer amendment No. 129 with all other provisions of the agreement still in place.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. We can expect two more votes right now, first on the Schumer amendment and then on the underlying Talent amendment. Then there will be a break before we have another series of votes.

I yield the floor.

The PRESIDING OFFICER. There are 2 minutes equally divided. Who seeks time?

The Senator from New York.

Mr. SCHUMER. Mr. President, I will address both the Schumer second-degree amendment and the underlying Talent amendment. This all relates to the millionaire's loophole.

Mr. TALENT. Will the Senator yield for a second? Does the Senator want to ask unanimous consent to have 4 minutes at once here, which we talked about before?

Mr. SCHUMER. I think that is what the Chair called for. Am I right?

The PRESIDING OFFICER. That is correct.

Mr. TALENT. So it is 4 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. It is 4 minutes equally divided, 2 minutes on each side.

Mr. SCHUMER. Mr. President, we have debated this before when I offered an amendment to close the millionaire's loophole. My colleagues may recall the millionaire's loophole will allow a millionaire to shield his or her assets in a certain type of trust. It would not be susceptible to bankruptcy. The millionaire could then declare bankruptcy, shed his debts, and still have the assets in the trust. It is an egregious abuse.

Unfortunately, my amendment was voted down. My friend from Missouri has offered an amendment that frankly keeps the status quo. I understand many on the other side are sort of pained that they had to vote against this amendment, but let me tell colleagues what the Talent amendment does.

It requires a showing of intent to defraud in order to not shield the assets. Well, give me a break. Or as my kids would say: Hello.

Which millionaire is going to hire a lawyer and say, make sure you leave a paper trail so they can prove intent? Of course, one cannot prove intent, particularly if the actual intent is to hide the assets.

So in all due respect to my good friend from Missouri, this amendment is simply a subterfuge. Make no mistake about it, the Talent amendment will not rectify the millionaire's loophole, will not provide cover for people who seek cover. If we want to correct the Talent amendment, vote for the Schumer second-degree to Talent, which eliminates the intent requirement.

One more point. Aside from the intent issue——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SCHUMER. I guess there are no more points.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Utah.

Mr. HATCH. Mr. President, one can have self-settled trusts. What the amendment of the distinguished Senator from New York does is do away with essentially all self-settled trusts. Frankly, Senator SCHUMER's amendment is so broad that it covers all settled trusts, not just fraud.

The amendment of the distinguished Senator from Missouri covers fraud, and he does it in the appropriate way, a legal way, the way it should be done.

I yield the remainder of my time to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. I thank the Senator from Utah.

Very briefly, we should not allow criminals to hide their assets and avoid paying their bills. This amendment makes certain that dishonest people can't hide their assets, especially if they have caused others to lose their jobs, retirement pensions, health care benefits and, in some cases, their life savings.

One of the reasons the economy plunged into a recession a few years back was because of corporate fraud. And those crimes caused companies to fail, eliminating thousands of jobs. It is fundamentally unfair to allow these crooks to abuse the trust laws of certain States to hide their wealth.

My amendment is simple. It closes the asset protection trust loophole by empowering bankruptcy courts to go back 10 years to take away fraudulent transfers that criminals have sheltered away in an attempt to avoid paying back their debts.

Here is a little background on the problem. Asset protection trusts are trusts that a person forms to shield assets for his or her own benefit.

Although the law has historically allowed property owners to create trusts

for others, courts have historically refused to permit someone to tie up his or her own property in such a way that he or she can still enjoy it but prevent his or her creditors from ever reaching it.

My amendment states clearly that these trusts cannot be used in bankruptcy to allow a person to shelter their assets to avoid repaying their debts because of a judgment in criminal, civil, or bankruptcy court.

In addition, my amendment closes the loophole that the New York Times wrote a good article about. That article noted how difficult it is to determine how much money these crooks have sheltered into these asset protection trusts. Some estimate that criminals have stashed away billions of dollars in these types of trusts.

This amendment allows victims to go after any resource transferred into the trust by a corporate criminal over the previous 10 years. Current laws says that if a corporate executive is convicted of a crime, victims can only go after resources transferred into these trusts over the last year. The bankruptcy bill, without my amendment, would have made it only 2 years.

But, that is still not enough time to go after the criminals who set up these asset protection trusts.

There is a gap of several years where criminals could have put billions in assets into these trusts and the Federal and State bankruptcy courts might not be able to touch them. My amendment closes the loophole for criminals.

I urge my colleagues to support this amendment—it simply cracks down on criminals.

I yield back my time.

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

The PRESIDING OFFICER (Mr. COLEMAN). Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 129 to amendment No. 121.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 41 Leg.]

YEAS—43

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

NAYS—56

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

NOT VOTING—1

Clinton

The amendment (No. 129) was rejected.

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

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following the next vote the Senate proceed to consideration of Calendar No. 39, S. 250, the Vocational and Technical Education Act; provided that the committee-reported substitute amendment be agreed to, there be 30 minutes for debate equally divided between the chairman and ranking member, no other amendments be in order, and that following the debate, the bill, as amended, be read a third time, and the Senate proceed to vote on passage of the bill first in the next series of votes with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VOTE ON AMENDMENT 121

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 121. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 42 Leg.]

YEAS—73

Alexander	Chambliss	Domenici
Allard	Coburn	Dorgan
Allen	Cochran	Ensign
Baucus	Coleman	Enzi
Bennett	Collins	Frist
Biden	Conrad	Graham
Bingaman	Cornyn	Grassley
Bond	Corzine	Gregg
Brownback	Craig	Hagel
Bunning	Crapo	Harkin
Burns	Dayton	Hatch
Burr	DeMint	Hutchison
Byrd	DeWine	Inhofe
Cantwell	Dodd	Isakson
Chafee	Dole	Johnson
Kohl	Nelson (NE)	Stevens
Kyl	Pryor	Sununu
Lincoln	Roberts	Talent
Lott	Salazar	Thomas
Lugar	Santorum	Thune
Martinez	Sessions	Vitter
McCain	Shelby	Voinovich
McConnell	Smith	Warner
Murkowski	Snowe	
Nelson (FL)	Specter	

NAYS—26

Akaka	Kennedy	Obama
Bayh	Kerry	Reed
Boxer	Landrieu	Reid
Carper	Lautenberg	Rockefeller
Durbin	Leahy	Sarbanes
Feingold	Levin	Schumer
Feinstein	Lieberman	Stabenow
Inouye	Mikulski	Wyden
Jeffords	Murray	

NOT VOTING—1

Clinton

The amendment (No. 121) was agreed to.

CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the clerk will report the next bill by title.

The bill clerk read as follows:

A bill (S. 250) to amend the Carl D. Perkins Education and Technical Education Act of 1998 to improve the Act.

The Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike part shown in black brackets and insert part shown in italic.)

S. 250

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

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Carl D. Perkins Career and Technical Education Improvement Act of 2005''.

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

[Sec. 113. State leadership activities.
[Sec. 114. Distribution of funds to secondary school programs.
[Sec. 115. Distribution of funds for postsecondary career and technical education programs.
[Sec. 116. Special rules for career and technical education.
[Sec. 117. Local plan for career and technical education programs.
[Sec. 118. Local uses of funds.
[Sec. 119. Tech-Prep education.
[TITLE II—GENERAL PROVISIONS
[Sec. 201. Redesignation of title.
[Sec. 202. Fiscal requirements.
[Sec. 203. Voluntary selection and participation.
[Sec. 204. Limitation for certain students.
[Sec. 205. Authorization of Secretary; participation of private school personnel.
[Sec. 206. Student assistance and other Federal programs.
[Sec. 207. Table of contents.

[SEC. 2. REFERENCES.

[Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

[SEC. 3. PURPOSE.

[Section 2 (20 U.S.C. 2301) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in paragraph (1), by striking ''standards'' and inserting ''and technical standards, and to assist students in meeting such standards, especially in preparation for high skill, high wage, or high demand occupations in emerging or established professions'';

[(3) in paragraph (2), by inserting ''challenging'' after ''integrate'';

[(4) in paragraph (3), by striking ''and'' after the semicolon;

[(5) in paragraph (4)—

[(A) by inserting ''conducting and'' before ''disseminating national'';

[(B) by inserting ''disseminating information on best practices,'' after ''national research,''; and

[(C) by striking the period at the end and inserting a semicolon; and

[(6) by adding at the end the following:

[''(5) promoting leadership and professional development at the State and local levels, and developing research and best practices for improving the quality of career and technical education teachers, faculty, principals, administrators, and counselors;

[''(6) supporting partnerships among secondary schools, postsecondary institutions, area career technical centers, business and industry, professional associations, and intermediaries; and

[''(7) developing a highly skilled workforce needed to keep America competitive in the global economy in conjunction with other Federal education and training programs, including workforce investment programs, that provide lifelong learning for the workforce of today and tomorrow.''.

[SEC. 4. DEFINITIONS.

[Section 3 (20 U.S.C. 2302) is amended—

[(1) in paragraph (2), by inserting '', including employment statistics and information relating to national, regional, and local labor market areas, as provided pursuant to section 118, and career ladder information, where appropriate'' after ''to enter'';

[(2) in paragraph (3)—

[(A) in the paragraph heading, by striking ''VOCATIONAL'' and inserting ''CAREER''; and

[(B) by striking ''vocational'' each place the term appears and inserting ''career'';

[(3) by striking paragraph (4);

[(4) by redesignating paragraphs (5) through (30) as paragraphs (10) through (35), respectively;

[(5) by inserting after paragraph (3) the following:

[''(4) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment, approved annually by the relevant administrators of the secondary and postsecondary institutions, to a program that is designed to provide students with a nonduplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree, and linked through credit transfer agreements.

[''(5) CAREER AND TECHNICAL EDUCATION.—The term 'career and technical education' means organized educational activities that—

[''(A) offer a sequence of courses (which may include technical learning experiences) that—

[''(i) provides individuals with the challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers in emerging and established professions; and

[''(ii) may lead to technical skill proficiency, a credential, a certificate, or a degree; and

[''(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, of an individual.

[''(6) CAREER AND TECHNICAL EDUCATION STUDENT.—The term 'career and technical education student' means a student who enrolls in a clearly defined sequence of career and technical education courses leading to attainment of technical skill proficiency, a credential, a certificate, or a degree.

[''(7) CAREER AND TECHNICAL STUDENT ORGANIZATION.—

[''(A) IN GENERAL.—The term 'career and technical student organization' means an organization for individuals enrolled in a career and technical education program that engages in career and technical education activities as an integral part of the instructional program.

[''(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in career and technical education at the local level.

[''(8) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve guidance and counseling with respect to career options, financial aid, and postsecondary options.

[''(9) CAREER PATHWAY.—The term 'career pathway' means a coordinated and nonduplicative sequence of courses (which may include technical learning experiences) and associated credits that—

[''(A) shall identify both secondary and postsecondary education elements;

[''(B) shall include challenging academic and career and technical education content;

[''(C) may include the opportunity for secondary students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary credits; and

[''(D) may culminate in technical skill proficiency, a credential, a certificate, or a degree.'';

[(6) in paragraph (10) (as redesignated by paragraph (4) of this section), by striking ''5206'' and inserting ''5210'';

[(7) by redesignating paragraphs (11) through (35) (as redesignated by paragraph (4) of this section) as paragraphs (12) through (36), respectively;

[(8) by inserting after paragraph (10) (as redesignated by paragraph (4) of this section) the following:

[''(11) COMMUNITY COLLEGE.—The term 'community college'—

[''(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a baccalaureate degree; and

[''(B) includes tribally controlled colleges or universities.'';

[(9) in paragraph (12) (as redesignated by paragraph (7) of this section)—

[(A) by striking ''method of instruction'' and inserting ''method''; and

[(B) by striking ''vocational'' and inserting ''career'';

[(10) by redesignating paragraphs (13) through (36) (as redesignated by paragraph (7) of this section) as paragraphs (14) through (37), respectively;

[(11) by inserting after paragraph (12) the following:

[''(13) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that under this Act such subjects included in such term shall be only those subjects in a secondary school context.'';

[(12) in paragraph (16) (as redesignated by paragraph (10) of this section), by striking ''vocational'' both places the term appears and inserting ''career'';

[(13) in paragraph (17) (as redesignated by paragraph (10) of this section)—

[(A) in subparagraph (A), by striking ''an institution of higher education'' and inserting ''a public or nonprofit private institution of higher education that offers career and technical education courses that lead to technical skill proficiency, an industry-recognized credential, a certificate, or a degree''; and

[(B) in subparagraph (C), by striking ''vocational'' and inserting ''career'';

[(14) in paragraph (18)(A) (as redesignated by paragraph (10) of this section), by striking ''agency, an area vocational'' and inserting ''agency (including a public charter school that operates as a local educational agency), an area career'';

[(15) by redesignating paragraphs (20) through (37) (as redesignated by paragraph (10) of this section) as paragraphs (21) through (38), respectively;

[(16) by inserting after paragraph (19) (as redesignated by paragraph (10) of this section) the following:

[''(20) GRADUATION AND CAREER PLAN.—The term 'graduation and career plan' means a written plan for a secondary career and technical education student, that—

[''(A) is developed with career guidance and academic counseling or other professional staff, and in consultation with parents, not later than in the first year of secondary school or upon enrollment in career and technical education;

[''(B) is reviewed annually and modified as needed;

[''(C) includes relevant information on—

[''(i) secondary school requirements for graduating with a diploma;

[''(ii) postsecondary education admission requirements; and

[''(iii) high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions, and labor market indicators; and

[''(D) states the student's secondary school graduation goals, postsecondary education

and training, or employment goals, and identifies 1 or more career pathways that correspond to the goals.'';

[(17) in paragraph (25) (as redesignated by paragraph (15) of this section)—

[(A) in the paragraph heading, by striking ''TRAINING AND EMPLOYMENT'' and inserting ''FIELDS''; and

[(B) by striking ''training and employment'' and inserting ''fields'';

[(18) in paragraph (26) (as redesignated by paragraph (15) of this section), by striking ''the Commonwealth'' and all that follows through the period and inserting ''and the Commonwealth of the Northern Mariana Islands.'';

[(19) by redesignating paragraphs (31) through (38) (as redesignated by paragraph (15) of this section) as paragraphs (32) through (39), respectively;

[(20) by inserting after paragraph (30) (as redesignated by paragraph (15) of this section) the following:

[''(31) SELF-SUFFICIENCY.—The term 'self-sufficiency' means a standard that is adopted, calculated, or commissioned by a local area or State, and which adjusts for local factors, in specifying the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.'';

[(21) in paragraph (32) (as redesignated by paragraph (19) of this section)—

[(A) in subparagraph (C), by striking ''training and employment'' and inserting ''fields''; and

[(B) in subparagraph (F), by striking ''individuals with other barriers to educational achievement, including'';

[(22) in paragraph (34) (as redesignated by paragraph (19) of this section) by striking '', and instructional aids and devices'' and inserting ''instructional aids, and work supports'';

[(23) by striking paragraph (35) (as redesignated by paragraph (19) of this section) and inserting the following:

[''(35) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

[''(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

[''(B) integrates academic and career and technical education instruction, and utilizes work-based and worksite learning where appropriate and available;

[''(C) provides technical preparation in a career field, including high skill, high wage, or high demand occupations;

[''(D) builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction, in a coherent sequence of courses;

[''(E) leads to technical skill proficiency, a credential, a certificate, or a degree, in a specific career field;

[''(F) leads to placement in appropriate employment or to further education; and

[''(G) utilizes career pathways, to the extent practicable.'';

[(24) in paragraph (37) (as redesignated by paragraph (19) of this section)—

[(A) in the paragraph heading, by striking ''VOCATIONAL'' and inserting ''CAREER'';

[(B) in the matter preceding subparagraph [(A)—

[(i) by striking ''vocational'' and inserting ''career'';

[(ii) by striking ''paragraph (2)'' and inserting ''subsection (a)(2)''; and

[(iii) by striking ''paragraph (5)(A)'' and inserting ''subsection (a)(5)''; and

[(C) in subparagraph (F), by striking ''vocational'' and inserting ''career''; and

[(25) by striking paragraphs (38) and (39) (as redesignated by paragraph (19) of this section).

[SEC. 5. TRANSITION PROVISIONS.

[Section 4 (20 U.S.C. 2303) is amended by striking ''the Carl D. Perkins Vocational and Applied Technology Education Act'' and all that follows through the period and inserting ''this Act, as this Act was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. Each eligible agency shall be assured a full fiscal year for transition to plan for and implement the requirements of this Act.''.

[SEC. 6. LIMITATION.

[Section 6 (20 U.S.C. 2305) is amended by striking the second sentence.

[SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

[Section 8 (20 U.S.C. 2307) is amended—

[(1) by striking ''title II'' and inserting ''part D of title I''; and

[(2) by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

[TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

[SEC. 101. CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES.

[Title I (20 U.S.C. 2321 et seq.) is amended by striking the title heading and inserting the following:

['TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES".

[SEC. 102. RESERVATIONS AND STATE ALLOTMENT.

[Section 111(a) (20 U.S.C. 2321(a)) is amended—

[(1) in paragraph (1)(C), by striking ''2001 through 2003,'' and inserting ''2006 through 2011, not more than'';

[(2) in paragraph (2), in the matter preceding subparagraph (A), by striking ''paragraph (1)'' and inserting ''paragraph (1), that are not allotted under paragraph (5),'';

[(3) in paragraph (3)—

[(A) in subparagraph (B), by striking ''(or in the case'' and all that follows through ''1998)''; and

[(B) in subparagraph (C)—

[(i) in clause (i)(I), by striking ''(or in the case'' and all that follows through ''1998)''; and

[(ii) in clause (ii)(II), by striking ''(or in the case'' and all that follows through ''1998)''; and

[(4) by adding at the end the following:

[''(5) FORMULA FOR AMOUNTS IN EXCESS OF THE FISCAL YEAR 2005 FUNDING LEVEL.—

[''(A) IN GENERAL.—For any fiscal year for which the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) exceeds the remainder of the sums appropriated under section 8 and not reserved under paragraph (1) for fiscal year 2005, such excess amount shall be allotted to the States according to the formula under subparagraphs (A) through (D) of paragraph (2).

[''(B) MINIMUM ALLOTMENT.—

[''(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), no State shall receive for a fiscal year under this paragraph less than ½ of 1 percent of the excess amount described in subparagraph (A).

[''(ii) REQUIREMENT.—No State, by reason of the application of clause (i), shall be allotted under this paragraph for a fiscal year more than the amount determined by multiplying—

[''(I) the number of individuals in the State counted under paragraph (2); by

[''(II) 185 percent of the national average per pupil payment made with the excess amount described in subparagraph (A) for that year.''.

[SEC. 103. WITHIN STATE ALLOCATION.

[Section 112 (20 U.S.C. 2322) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by adding ''and'' after the semicolon; and

[(B) by striking paragraphs (2) and (3) and inserting the following:

[''(2) not more than 15 percent for—

[''(A) State leadership activities described in section 124, of which—

[''(i) an amount determined by the eligible agency shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

[''(ii) not less than $60,000 shall be available for services that prepare individuals for nontraditional fields; and

[''(B) administration of the State plan, which may be used for the costs of—

[''(i) developing the State plan;

[''(ii) reviewing the local plans;

[''(iii) monitoring and evaluating program effectiveness;

[''(iv) assuring compliance with all applicable Federal laws;

[''(v) providing technical assistance; and

[''(vi) supporting and developing State data systems relevant to the provisions of this Act.'';

[(2) in subsection (b), by striking ''subsection (a)(3)'' both places the term appears and inserting ''subsection (a)(2)(B)''; and

[(3) by striking subsection (c) and inserting the following:

[''(c) RESERVE.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may—

[''(1) award grants to eligible recipients, or consortia of eligible recipients, for career and technical education activities described in section 135 in—

[''(A) rural areas; or

[''(B) areas with high percentages or high numbers of career and technical education students;

[''(2) reserve funds, with the approval of participating eligible recipients, for—

[''(A) innovative statewide initiatives that demonstrate benefits for eligible recipients, which may include—

[''(i) developing and implementing technical assessments;

[''(ii) improving the professional development of career and technical education teachers, faculty, principals, and administrators; and

[''(iii) establishing, enhancing, and supporting systems for accountability data collection or reporting purposes; or

[''(B) the development and implementation of career pathways or career clusters; and

[''(3) carry out activities described in paragraphs (1) and (2).''.

[SEC. 104. ACCOUNTABILITY.

[Section 113 (20 U.S.C. 2323) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in subsection (a)—

[(A) by striking ''a State performance accountability system'' and inserting ''and support State and local performance accountability systems''; and

[(B) by inserting ''and its eligible recipients'' after ''of the State'';

[(3) in subsection (b)—

[(A) in paragraph (1)—

[(i) in subparagraph (A), by striking ''paragraph (2)(A)'' and inserting ''subparagraphs (A) and (B) of paragraph (2)''; and

[(ii) in subparagraph (B), by striking ''(2)(B)'' and inserting ''(2)(C)'';

[(B) in paragraph (2)—

[(i) by striking subparagraph (A) and inserting the following:

[''(A) CORE INDICATORS OF PERFORMANCE FOR SECONDARY CAREER AND TECHNICAL EDUCATION STUDENTS.—Each eligible agency

shall identify in the State plan core indicators of performance for secondary career and technical education students that include, at a minimum, measures of each of the following:

[''(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.

[''(ii) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and measured by the academic assessments described in section 1111(b)(3) of such Act, consistent with State requirements.

[''(iii) Student rates of attainment of—

[''(I) a secondary school diploma;

[''(II) the recognized equivalent of a secondary school diploma;

[''(III) technical skill proficiency;

[''(IV) a credential;

[''(V) a certificate; and

[''(VI) a degree.

[''(iv) Placement in postsecondary education, military service, apprenticeship programs, or employment.

[''(v) Student participation in, and completion of, career and technical education programs that lead to employment in nontraditional fields.'';

[(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

[(iii) by inserting after subparagraph (A) the following:

[''(B) CORE INDICATORS OF PERFORMANCE FOR POSTSECONDARY CAREER AND TECHNICAL STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for postsecondary career and technical education students that include, at a minimum, measures of each of the following:

[''(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.

[''(ii) Student attainment of technical skill proficiency, a credential, a certificate, or a degree, or retention in postsecondary education, including transfer to a baccalaureate degree program.

[''(iii) Placement in military service, apprenticeship programs, or employment.

[''(iv) Student participation in, and completion of, career and technical education programs that lead to employment in nontraditional fields.

[''(v) Increase in earnings, where available.'';

[(iv) in subparagraph (C) (as redesignated by clause (ii) of this subparagraph), by striking ''the title.'' and inserting ''this title, such as attainment of self-sufficiency.'';

[(v) in subparagraph (D) (as redesignated by clause (ii) of this subparagraph), by inserting ''career and technical education'' after ''developed State'';

[(vi) in subparagraph (E) (as redesignated by clause (ii) of this subparagraph)—

[(I) by striking ''this paragraph'' and inserting ''subparagraphs (A) and (B)''; and

[(II) by striking ''recipients.'' and inserting ''recipients, and shall meet the requirements of this section.''; and

[(vii) by adding at the end the following:

''[(F) ALIGNMENT OF PERFORMANCE INDICATORS.—In the course of identifying core indicators of performance and additional indicators of performance, States shall, to the greatest extent possible, define the indicators so that substantially similar information gathered for other State and Federal programs, or any other purpose, is used to meet the requirements of this section.'';

[(C) in paragraph (3)—

[(i) in the paragraph heading, by striking ''LEVELS'' and inserting ''STATE LEVELS'';

[(ii) in subparagraph (A)—

[(I) in clause (i)—

[(aa) by striking ''paragraph (2)(A)'' and inserting ''subparagraphs (A) and (B) of paragraph (2)'';

[(bb) by inserting ''after taking into account the local adjusted levels of performance and'' after ''eligible agency,''; and

[(cc) by striking subclause (II) and inserting the following:

[''(II) require the eligible recipients to make continuous and significant improvement in career and technical achievement of career and technical education students, including special populations.'';

[(II) in clause (v)—

[(aa) in the clause heading, by striking ''3RD, 4TH, AND 5TH'' and inserting ''SUBSEQUENT'';

[(bb) by striking ''third program year'' and inserting ''third and fifth program years''; and

[(cc) by striking ''third, fourth, and fifth'' and inserting ''corresponding subsequent'';

[(III) in clause (vi)(II), by inserting ''and significant'' after ''continuous''; and

[(IV) in clause (vii), by striking ''or (vi)'' and inserting ''or (v)''; and

[(iii) in subparagraph (B), by striking ''(2)(B)'' and inserting ''(2)(C)''; and

[(D) by adding at the end the following:

[''(4) LOCAL LEVELS OF PERFORMANCE.—

[''(A) LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

[''(i) IN GENERAL.—Each eligible recipient shall accept the State adjusted levels of performance established under paragraph (3) as local adjusted levels of performance, or negotiate with the State to reach agreement on new local adjusted levels of performance, for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

[''(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

[''(II) require the eligible recipient to make continuous and significant improvement in career and technical achievement of career and technical education students.

[''(ii) IDENTIFICATION IN THE LOCAL PLAN.—Each eligible recipient shall identify, in the local plan submitted under section 134, levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan.

[''(iii) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The eligible agency and each eligible recipient shall reach agreement on the eligible recipient's levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan, taking into account the levels identified in the local plan under clause (ii) and the factors described in clause (v). The levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan prior to the approval of such plan.

[''(iv) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR SUBSEQUENT YEARS.—Prior to the third and fifth program years covered by the local plan, the eligible agency and each eligible recipient shall reach agreement on the local adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the local plan, taking into account the factors described in clause (v). The local adjusted levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan.

[''(v) FACTORS.—The agreement described in clause (iii) or (iv) shall take into account—

[''(I) how the levels of performance involved compare with the local adjusted levels of performance established for other eligible recipients, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

[''(II) the extent to which the local adjusted levels of performance involved promote continuous and significant improvement on the core indicators of performance by the eligible recipient.

[''(vi) REVISIONS.—If unanticipated circumstances arise with respect to an eligible recipient resulting in a significant change in the factor described in clause (v)(II), the eligible recipient may request that the local adjusted levels of performance agreed to under clause (iii) or (iv) be revised. The eligible agency shall issue objective criteria and methods for making such revisions.

[''(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible recipient may identify, in the local plan, local levels of performance for any additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the local levels of performance for purposes of this title.

[''(C) REPORT.—Each eligible recipient that receives an allocation under section 131 shall publicly report, on an annual basis, its progress in achieving the local adjusted levels of performance on the core indicators of performance.''; and

[(4) by striking subsection (c)(1)(B) and inserting:

[''(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance disaggregated for postsecondary institutions, by special populations, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual.''.

[SEC. 105. NATIONAL ACTIVITIES.

[Section 114 (20 U.S.C. 2324) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in subsection (a)(1), by striking '', including an analysis of performance data regarding special populations'' and inserting '', including an analysis of performance data that is disaggregated for postsecondary institutions, by special populations, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual'';

[(3) in subsection (c)—

[(A) by striking paragraph (2) and inserting the following:

[''(2) INDEPENDENT ADVISORY PANEL.—

[''(A) IN GENERAL.—The Secretary shall appoint an independent advisory panel to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed and the methodology of the studies involved to ensure that the assessment adheres to the highest standards of quality.

[''(B) MEMBERS.—The advisory panel shall consist of—

[''(i) educators, principals, and administrators (including State directors of career and technical education), with expertise in the integration of academic and career and technical education;

[''(ii) experts in evaluation, research, and assessment;

[''(iii) representatives of labor organizations and businesses, including small businesses;

[''(iv) parents;

[''(v) career guidance and academic counseling professionals; and

[''(vi) other individuals and intermediaries with relevant expertise.

[''(C) INDEPENDENT ANALYSIS.—The advisory panel shall transmit to the Secretary and to the relevant committees of Congress an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3).

[''(D) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this paragraph.'';

[(B) in paragraph (3)—

[(i) by striking subparagraph (A) and inserting the following:

[''(A) IN GENERAL.—From amounts made available under subsection (d), the Secretary shall provide for the conduct of an independent evaluation and assessment of career and technical education programs under this Act, including the implementation of the Carl D. Perkins Career and Technical Education Improvement Act of 2005, to the extent practicable, through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.'';

[(ii) in subparagraph (B)—

[(I) by striking clause (iii) and inserting the following:

[''(iii) the preparation and qualifications of teachers and faculty of career and technical education, as well as shortages of such teachers and faculty;'';

[(II) by striking clause (v) and inserting the following:

[''(v) academic and career and technical education achievement and employment outcomes of career and technical education students, including analyses of—

[''(I) the number of career and technical education students and tech-prep students who meet the State adjusted levels of performance established under section 113;

[''(II) the extent and success of integration of challenging academic and career and technical education for students participating in career and technical education programs;

[''(III) the extent to which career and technical education programs prepare students, including special populations, for subsequent employment in high skill, high wage occupations, or participation in postsecondary education; and

[''(IV) the number of career and technical education students receiving a high school diploma;'';

[(III) in clause (vi), by inserting '', and career and technical education students' preparation for employment'' after ''programs''; and

[(IV) in clause (viii), by inserting ''and local'' after ''State'' both places such term appears; and

[(iii) in subparagraph (C)—

[(I) in clause (i)—

[(aa) by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress''; and

[(bb) by striking ''2002'' both places it appears and inserting ''2009''; and

[(II) in clause (ii), by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress'';

[(C) in paragraph (4)(B), by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress'';

[(D) in paragraph (5)—

[(i) in subparagraph (A)—

[(I) in the matter preceding clause (i), by striking ''higher education'' and all that follows through ''centers'' and inserting ''higher education offering comprehensive graduate programs in career and technical education that shall be the primary recipient and shall collaborate with a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies, to establish a national research center'';

[(II) in clause (i)—

[(aa) by inserting ''and evaluation'' after ''to carry out research''; and

[(bb) by inserting '', including special populations,'' after ''participants'';

[(III) by redesignating clauses (ii), (iii), and (iv), as clauses (iii), (iv), and (v), respectively;

[(IV) by inserting after clause (i) the following:

[''(ii) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the needs of employers in high skill, high wage business and industry, including evaluation and scientifically based research of—

[''(I) collaboration between career and technical education programs and business and industry;

[''(II) academic and technical skills required to respond to the challenge of a global economy and rapid technological changes; and

[''(III) technical knowledge and skills required to respond to needs of a regional or sectoral workforce, including small business;'';

[(V) in clause (iii) (as redesignated by subclause (III) of this clause), by inserting ''that are integrated with challenging academic instruction'' before '', including''; and

[(VI) by striking clause (iv) (as redesignated by subclause (III) of this clause) and inserting the following:

[''(iv) to carry out scientifically based research, where appropriate, that can be used to improve preparation and professional development of teachers, faculty, principals, and administrators and student learning in the career and technical education classroom, including—

[''(I) effective in-service and pre-service teacher and faculty education that assists career and technical education programs in—

[''(aa) integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

[''(bb) promoting technical education aligned with industry-based standards and certifications to meet regional industry needs;

[''(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on career and technical education skills, State academic standards, and related materials; and

[''(III) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and'';

[(ii) in subparagraph (B)—

[(I) by striking ''or centers'' both places the term appears; and

[(II) by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress'';

[(iii) in subparagraph (C), by striking ''or centers''; and

[(iv) by adding at the end the following:

[''(D) INDEPENDENT GOVERNING BOARD.—

[''(i) IN GENERAL.—An institution of higher education that desires a grant, contract, or cooperative agreement under this paragraph shall identify, in its application, an independent governing board for the center established pursuant to this paragraph.

[''(ii) MEMBERS.—The independent governing board shall consist of the following:

[''(I) Two representatives of secondary career and technical education.

[''(II) Two representatives of postsecondary career and technical education.

[''(III) Two representatives of eligible agencies.

[''(IV) Two representatives of business and industry.

[''(V) Two representatives of career and technical teacher preparation institutions.

[''(VI) Two nationally recognized researchers in the field of career and technical education.

[''(iii) COORDINATION.—The independent governing board shall ensure that the research and dissemination activities carried out by the center are coordinated with the research activities carried out by the Secretary.'';

[(E) in paragraph (6)(B)(ii), by striking ''or centers''; and

[(F) by striking paragraph (8); and

[(4) by adding at the end the following:

[''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.''.

[SEC. 106. ASSISTANCE FOR THE OUTLYING AREAS.

[Section 115 (20 U.S.C. 2325) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in subsection (b)—

[(A) in the matter preceding paragraph (1), by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia,'';

[(B) in paragraph (1), by striking ''training and retraining;'' and inserting ''preparation;'';

[(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

[(D) by inserting after paragraph (1) the following:

[''(2) professional development for teachers, faculty, principals, and administrators;''; and

[(3) in subsection (d)—

[(A) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

[(B) by striking ''2001'' and inserting ''2007''.

[SEC. 107. NATIVE AMERICAN PROGRAM.

[Section 116 (20 U.S.C. 2326) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in subsection (a)(5), by adding a period at the end;

[(3) in subsection (b)—

[(A) in paragraph (1), by striking ''(d)'' and inserting ''(c)''; and

[(B) in paragraph (2), by striking ''(other than in subsection (i))'';

[(4) in subsection (d), by striking ''section an'' and inserting ''section, an'';

[(5) in subsection (e), by striking ''paragraph'' and inserting ''section''; and

[(6) in subsection (h), by striking ''which are recognized by the Governor of the State of Hawaii''.

[SEC. 108. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.

[Section 117 (20 U.S.C. 2327) is amended—

[(1) by striking the section heading and inserting the following:

[''SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.'';

[(2) by striking ''vocational'' each place the term appears and inserting ''career'';

[(3) in subsection (g)—

[(A) in paragraph (1), by striking ''The Secretary'' and inserting ''On an annual basis, the Secretary'';

[(B) in paragraph (2)(B), by striking ''2000'' and inserting ''2007''; and

[(C) in paragraph (3)(C), by striking ''beginning'' and all that follows through the period and inserting ''beginning on the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005.'';

[(4) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively;

[(5) by inserting after subsection (g) the following:

[''(h) APPEALS.—

[''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide a tribally controlled postsecondary career and technical institution with a hearing on the record before an administrative law judge with respect to the following determinations:

[''(A) A determination that such institution is not eligible for a grant under this section.

[''(B) A determination regarding the calculation of the amount of a grant awarded under this section.

[''(2) PROCEDURE FOR APPEAL.—To appeal a determination described in paragraph (1), a tribally controlled postsecondary career and technical institution shall—

[''(A) in the case of an appeal based on a determination that such institution is not eligible for a grant under this section, file a notice of appeal with the Secretary not later than 30 days after receipt of such determination; and

[''(B) in the case of an appeal based on a determination regarding the calculation of the amount of a grant awarded under this section—

[''(i) file a notice of appeal with the Secretary not later than 30 days after receipt of the Secretary's notification of the grant amount; and

[''(ii) identify the amount of funding that gives rise to such appeal.

[''(3) WITHHOLDING OF AMOUNT.—If a tribally controlled postsecondary career and technical institution appeals a determination described in paragraph (1), the Secretary shall withhold the amount in dispute from the award of grant funds under this section until such time as the administrative law judge has issued a written decision on the appeal.''; and

[(6) by striking subsection (j) (as redesignated by paragraph (4) of this section) and inserting the following:

[''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.''.

[SEC. 109. OCCUPATIONAL AND EMPLOYMENT INFORMATION.

[Section 118 (20 U.S.C. 2328) is amended—

[(1) in subsection (a)—

[(A) in the matter preceding paragraph (1), by striking ''(f)'' and inserting ''(g)'';

[(B) in paragraph (1)—

[(i) in subparagraph (A), by striking ''(b)'' both places it appears and inserting ''(c)'';

[(ii) in subparagraph (B), by striking ''(b)'' and inserting ''(c)''; and

[(iii) in subparagraph (C), by striking ''(b)'' and inserting ''(c)''; and

[(C) in paragraph (2), by striking ''(b)'' both places it appears and inserting ''(c)'';

[(2) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively;

[(3) by inserting after subsection (a) the following:

[''(b) STATE APPLICATION.—

[''(1) IN GENERAL.—Each State desiring assistance under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 122, in such manner, and accompanied by such additional information, as the Secretary may reasonably require.

[''(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

[''(A) a description of how the State entity designated in subsection (c) will provide information based on labor market trends to inform program development; and

[''(B) information about the academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965.'';

[(4) in subsection (c) (as redesignated by paragraph (2) of this section)—

[(A) in paragraph (1), by striking ''individuals'' and all that follows through the semicolon and inserting ''students and parents, including postsecondary education and training, including preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging or established professions;'';

[(B) in paragraph (2), by inserting ''academic and career and technical'' after ''relate'';

[(C) by striking paragraph (3) and inserting the following:

[''(3) to equip teachers, faculty, administrators, and counselors with the knowledge, skills, and occupational information needed to assist parents and all students, especially special populations underrepresented in certain careers, with career exploration, educational opportunities, education financing, and exposure to high skill, high wage, or high demand occupations and nontraditional fields;'';

[(D) in paragraph (4), by striking ''such entities;'' and inserting ''such entities, with an emphasis on high skill, high wage, or high demand occupations in emerging or established professions;'';

[(E) in paragraph (5), by striking ''and'' after the semicolon;

[(F) in paragraph (6), by striking the period and inserting ''; and''; and

[(G) by adding at the end the following:

[''(7) to provide information, if available, for each occupation, on—

[''(A) the average earnings of an individual in the occupation at entry level and after 5 years of employment;

[''(B) the expected lifetime earnings; and

[''(C) the expected future demand for the occupation, based on employment projections.'';

[(5) in subsection (d)(1) (as redesignated by paragraph (2) of this section), by striking ''(b)'' both places it appears and inserting ''(c)'';

[(6) in subsection (e)(1) (as redesignated by paragraph (2) of this section), by striking ''(b)'' and inserting ''(c)'';

[(7) in subsection (f)(1) (as redesignated by paragraph (2) of this section), by striking ''an identification'' and inserting ''a description''; and

[(8) in subsection (g) (as redesignated by paragraph (2) of this section), by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

[SEC. 110. STATE ADMINISTRATION.

[Section 121 (20 U.S.C. 2341) is amended—

[(1) by redesignating subsection (a)(2) as subsection (b) and indenting appropriately;

[(2) by redesignating subparagraphs (A) through (D) of subsection (a)(1) as paragraphs (1) through (4), respectively, and indenting appropriately;

[(3) by redesignating clauses (i) and (ii) of paragraph (4) (as redesignated by paragraph (2) of this section) as subparagraphs (A) and (B), respectively, and indenting appropriately;

[(4) by striking the following:

[''(a) ELIGIBLE AGENCY RESPONSIBILITIES.—

[''(1) IN GENERAL.—The responsibilities'' and inserting the following:

[''(a) ELIGIBLE AGENCY RESPONSIBILITIES.—The responsibilities'';

[(5) in subsection (a)(1) (as redesignated by paragraph (2) of this section), by striking ''training and employment'' and inserting ''fields'';

[(6) in subsection (a)(2) (as redesignated by paragraph (2) of this section)—

[(A) by inserting ''teacher and faculty preparation programs,'' after ''teachers,''; and

[(B) by inserting ''all types and sizes of'' after ''representatives of''; and

[(7) in subsection (b) (as redesignated by paragraph (1) of this section), by striking ''paragraph (1)'' and inserting ''subsection (a)''.

[SEC. 111. STATE PLAN.

[Section 122 (20 U.S.C. 2342) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in subsection (a)—

[(A) in paragraph (1)—

[(i) by striking ''5'' and inserting ''6''; and

[(ii) by adding at the end the following: ''Each eligible agency may submit a transition plan during the first full year of implementation of this Act after the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. The transition plan shall fulfill the eligible agency's State plan submission obligation under this section.''; and

[(B) in paragraph (2)(B), by striking ''5 year State plan'' and inserting ''6-year period'';

[(3) by striking subsection (b)(1) and inserting the following:

[''(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, eligible recipients, parents, students, the State tech-prep coordinator and representatives of tech-prep consortia (if applicable), interested community members (including parent and community organizations), representatives of special populations, representatives of business (including small business) and industry, and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.'';

[(4) by striking subsection (c) and inserting the following:

[''(c) PLAN CONTENTS.—The State plan shall include information that—

[''(1) describes the career and technical education activities to be assisted that are

designed to meet or exceed the State adjusted levels of performance, including a description of—

[''(A) how the eligible agency will support eligible recipients in developing or implementing career pathways for career and technical education content areas that are designed to meet relevant workforce needs, including how the eligible agency will—

[''(i) support eligible recipients in developing articulation agreements between secondary and postsecondary institutions;

[''(ii) support eligible recipients in using labor market information to identify career pathways that prepare individuals for high skill, high wage, or high demand occupations;

[''(iii) make available information about career pathways offered by eligible recipients; and

[''(iv) consult with business and industry and use industry-recognized standards and assessments, if appropriate;

[''(B) the secondary and postsecondary career and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality technology in career and technical education programs;

[''(C) the criteria that will be used by the eligible agency to approve eligible recipients for funds under this title, including criteria to assess the extent to which the local plan will—

[''(i) promote higher levels of academic achievement;

[''(ii) promote higher levels of technical skill attainment; and

[''(iii) identify and address workforce needs;

[''(D) how programs at the secondary level will prepare career and technical education students, including special populations to graduate from high school with a diploma;

[''(E) how such programs will prepare career and technical education students, including special populations, both academically and technically, for opportunities in postsecondary education or entry into high skill, high wage, or high demand occupations in emerging or established occupations, and how participating students will be made aware of such opportunities; and

[''(F) how funds will be used to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations that are aligned with business needs and industry standards, as appropriate—

[''(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

[''(ii) at the postsecondary level that are relevant and challenging;

[''(2) describes how career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors will be provided comprehensive initial preparation and professional development, including through programs and activities that—

[''(A) promote the integration of challenging academic and career and technical education curriculum development, including opportunities for teachers to jointly develop and implement curriculum and pedagogical strategies with appropriate academic teachers;

[''(B) increase the academic and career and technical education knowledge of career and technical education teachers and faculty;

[''(C) are high-quality, sustained, intensive, focused on instruction, directly related to industry standards, and includes structured induction and mentoring components for new personnel, with an emphasis on identifying and addressing the needs of local businesses, including small businesses;

[''(D) ensure an increasing number of career and technical education teachers and faculty meet teacher certification and licensing requirements reflecting the needs of their subject area or areas;

[''(E) equip them with the knowledge and skills needed to work with and improve instruction for special populations;

[''(F) assist in accessing and utilizing data, including labor market indicators, student achievement, and assessments;

[''(G) enhance the leadership capacity of principals and administrators;

[''(H) are integrated with professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965; and

[''(I) include strategies to expose all career and technical education students to comprehensive information regarding career options that lead to high skill, high wage, or high demand occupations and nontraditional fields;

[''(3) describes efforts to improve—

[''(A) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and

[''(B) the transition to teaching from business and industry, including small business;

[''(4) describes efforts to improve the capacity of programs and faculty at postsecondary institutions to effectively prepare career and technical education personnel, including, as appropriate, through electronically delivered distance education, and articulation agreements between 2-year technical programs and postsecondary education programs;

[''(5) describes how the eligible agency will actively involve parents, academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, local businesses (including small- and medium-sized businesses and business intermediaries), and labor organizations in the planning, development, implementation, and evaluation of such career and technical education programs;

[''(6) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

[''(A) among secondary school career and technical education, or postsecondary and adult career and technical education, or both, including the rationale for such allocation; and

[''(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

[''(7) describes how the eligible agency will—

[''(A) use funds to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations—

[''(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

[''(ii) at the postsecondary level that are challenging and aligned with business needs and industry standards, as appropriate;

[''(B) improve the academic and technical skills of students participating in career and technical education programs, including strengthening the academic, and career and technical, components of career and technical education programs through the integration of academics with career and technical education to ensure learning in the core academic subjects and career and technical education subjects, and provide students with strong experience in, and understanding of, all aspects of an industry;

[''(C) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students; and

[''(D) encourage secondary school students who participate in such career and technical education programs to enroll in challenging courses in core academic subjects;

[''(8) describes how the eligible agency will annually evaluate the effectiveness of such career and technical education programs, and describes, to the extent practicable, how the eligible agency is coordinating such programs to promote relevant lifelong learning and ensure nonduplication with other existing Federal programs;

[''(9) describes the eligible agency's program strategies for special populations, including a description of how individuals who are members of the special populations—

[''(A) will be provided with equal access to activities assisted under this title;

[''(B) will not be discriminated against on the basis of their status as members of the special populations; and

[''(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage, or high demand occupations;

[''(10) how the eligible agency will collaborate in developing the State plan with—

[''(A) the entity within the State with responsibility for elementary and secondary education;

[''(B) the entity within the State with responsibility for public institutions engaged in postsecondary education;

[''(C) State institutions such as State correctional institutions and institutions that serve individuals with disabilities; and

[''(D) all other relevant State agencies with responsibility for career and technical education and training and workforce development;

[''(11) describes what steps the eligible agency will take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

[''(12) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;

[''(13) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

[''(14) describes how the eligible agency will measure and report data relating to students participating in and completing career and technical education within specific career clusters in order to adequately measure the progress of the students, including special populations, at—

[''(A) the secondary level, disaggregated by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in

a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual; and

[''(B) the postsecondary level, disaggregated by special populations and the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual;

[''(15) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

[''(16) describes how the eligible agency will provide local educational agencies, area career and technical education schools, and eligible institutions in the State with technical assistance;

[''(17) describes how career and technical education relates to State and regional occupational opportunities;

[''(18) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education programs;

[''(19) describes how funds will be used to promote preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions;

[''(20) describes how funds will be used to serve individuals in State correctional institutions;

[''(21) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

[''(22) contains the description and information specified in sections 112(b)(8) and 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(8) and 2841(c)) concerning the provision of services only for postsecondary students and school dropouts.'';

[(5) by striking subsection (d) and inserting the following:

[''(d) PLAN OPTIONS.—

[''(1) SINGLE PLAN.—The eligible agency may fulfill the plan or application submission requirements of this section, section 118(b), and section 141(c) by submitting a single State plan. In such plan, the eligible agency may allow eligible recipients to fulfill the plan or application submission requirements of section 134 and subsections (a) and (b) of section 143 by submitting a single local plan.

[''(2) PLAN SUBMITTED AS PART OF 501 PLAN.—The eligible agency may submit the plan required under this section as part of the plan submitted under section 501 of the Workforce Investment Act of 1998 (20 U.S.C. 9271), provided that the plan submitted pursuant to the requirement of this section meets the requirements of this Act.''; and

[(6) by striking subsection (f).

[SEC. 112. IMPROVEMENT PLANS.

[Section 123 (20 U.S.C. 2343) is amended to read as follows:

["SEC. 123. IMPROVEMENT PLANS.

[''(a) STATE PROGRAM IMPROVEMENT PLAN.—

[''(1) PLAN.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with the appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under paragraph (3).

[''(2) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.

[''(3) FAILURE.—

[''(A) IN GENERAL.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet the State adjusted levels of performance for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this title.

[''(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in financial resources of the State.

[''(4) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—

[''(A) IN GENERAL.—The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purposes of this Act.

[''(B) REDISTRIBUTION.—If the Secretary cannot satisfactorily use funds withheld under paragraph (3), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (3) shall be redistributed to other eligible agencies in accordance with section 111.

[''(b) LOCAL PROGRAM IMPROVEMENT.—

[''(1) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the local adjusted levels of performance described in section 113(b)(4), the career and technical education activities of each eligible recipient receiving funds under this title.

[''(2) PLAN.—

[''(A) IN GENERAL.—If, after reviewing the evaluation, the eligible agency determines that an eligible recipient is not making substantial progress in achieving the local adjusted levels of performance, the eligible agency shall—

[''(i) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies, including the performance of special populations;

[''(ii) enter into an improvement plan with an eligible recipient based on the results of the assessment, for the first program year succeeding the program year in which the eligible recipient failed to meet the local adjusted levels of performance, which plan shall demonstrate how the local performance deficiencies will be corrected and include instructional and other programmatic innovations of demonstrated effectiveness, and, where necessary, strategies for appropriate staffing and professional development; and

[''(iii) conduct regular evaluations of the progress being made toward reaching the local adjusted levels of performance, as described in section 113(b)(4), and progress on implementing the improvement plan.

[''(B) CONSULTATION.—The eligible agency shall conduct the activities described in subparagraph (A) in consultation with teachers, principals, administrators, faculty, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

[''(3) TECHNICAL ASSISTANCE.—If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 134, or is not making substantial progress in meeting the purpose of this Act, based on the local adjusted levels of performance, the eligible agency shall provide technical assistance to the eligible recipient to assist the eligible recipient in carrying out the improvement activities consistent with the requirements of this Act. An eligible recipient, in collaboration with the eligible agency, may request that the Secretary provide additional technical assistance.

[''(4) FAILURE.—

[''(A) IN GENERAL.—If an eligible recipient fails to meet the local adjusted levels of performance as described in section 113(b)(4) and has not implemented an improvement plan as described in paragraph (2), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (2), or has failed to meet more than 1 of the local adjusted levels of performance for 2 or more consecutive years, the eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion of, the eligible recipient's allotment under this title.

[''(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The eligible agency may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as organizational structure, or a natural disaster or a precipitous and unforeseen decline in financial resources of the eligible recipient.

[''(5) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The eligible agency shall use funds withheld under paragraph (4) to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purpose of this Act.''.

[SEC. 113. STATE LEADERSHIP ACTIVITIES.

[Section 124 (20 U.S.C. 2344) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) in subsection (a), by striking ''112(a)(2)'' and inserting ''112(a)(2)(A)'';

[(3) in subsection (b)—

[(A) in paragraph (1), by striking ''further learning'' and all that follows through the semicolon and inserting ''further education, further training, or for high skill, high wage, or high demand occupations;'';

[(B) in paragraph (2), by striking subparagraphs (A) through (C) and inserting the following:

[''(A) training of career and technical education teachers, faculty, principals, career guidance and academic counselors, and administrators to use technology, including distance learning;

[''(B) encouraging schools to work with technology industries to offer voluntary internships and mentoring programs; or

[''(C) encouraging lifelong learning, including through partnerships that may involve institutions of higher education, organizations providing career and technical education, businesses, and communications entities;'';

[(C) by striking paragraph (3) and inserting the following:

[''(3) professional development programs, including providing comprehensive professional development (including initial teacher

preparation) for career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 122 and—

[''(A) provide in-service and pre-service training in career and technical education programs and techniques, effective teaching skills based on promising practices and, where available and appropriate, scientifically based research, and effective practices to improve parental and community involvement;

[''(B) improve student achievement in order to meet the State adjusted levels of performance established under section 113;

[''(C) support education programs for teachers and faculty of career and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students to ensure that such personnel—

[''(i) stay current with the needs, expectations, and methods of industry;

[''(ii) can effectively develop challenging, integrated academic and career and technical education curriculum jointly with academic teachers, to the extent practicable; and

[''(iii) develop a higher level of academic and industry knowledge and skills in career and technical education; and

[''(D) are integrated with the teacher certification or licensing and professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965;'';

[(D) in paragraph (4), by striking ''support for'' and inserting ''supporting'';

[(E) in paragraph (5), by striking ''nontraditional training and employment'' and inserting ''nontraditional fields in emerging and established professions, and other activities that expose students, including special populations, to high skill, high wage occupations'';

[(F) in paragraph (6)—

[(i) by inserting ''intermediaries,'' after ''labor organizations,''; and

[(ii) by inserting '', or complete career pathways, as described in section 122(c)(1)(A)'' after ''skills'';

[(G) in paragraph (7), by striking ''and'' after the semicolon;

[(H) in paragraph (8), by striking ''wage careers.'' and inserting ''wage, or high demand occupations; and''; and

[(I) by adding at the end the following:

[''(9) technical assistance for eligible recipients.'';

[(4) by striking subsection (c) and inserting the following:

[''(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

[''(1) improvement of career guidance and academic counseling programs that assist students in making informed academic, and career and technical education, decisions, including encouraging secondary and postsecondary students to graduate with a diploma or degree, and expose students to high skill, high wage occupations and nontraditional fields in emerging and established professions;

[''(2) establishment of agreements, including articulation agreements, between secondary and postsecondary career and technical education programs in order to provide postsecondary education and training opportunities for students participating in such career and technical education programs, such as tech-prep programs;

[''(3) support for career and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

[''(4) support for public charter schools operating secondary career and technical education programs;

[''(5) support for career and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

[''(6) support for family and consumer sciences programs;

[''(7) support for partnerships between education and business or business intermediaries, including cooperative education and adjunct faculty arrangements at the secondary and postsecondary levels;

[''(8) support to improve or develop new career and technical education courses and initiatives, including career clusters, career academies, and distance learning, that prepare individuals academically and technically for high skill, high wage, or high demand occupations;

[''(9) awarding incentive grants to eligible recipients for exemplary performance in carrying out programs under this Act, which awards shall be based on local performance indicators, as described in section 113, in accordance with previously publicly disclosed priorities;

[''(10) providing career and technical education programs for adults and school dropouts to complete their secondary school education;

[''(11) providing assistance to individuals, who have participated in services and activities under this title, in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

[''(12) developing valid and reliable assessments of technical skills that are integrated with industry certification assessments where available;

[''(13) developing and enhancing data systems to collect and analyze data on secondary and postsecondary academic and employment outcomes;

[''(14) improving—

[''(A) the recruitment and retention of career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

[''(B) the transition to teaching from business and industry, including small business; and

[''(15) adopting, calculating, or commissioning a self-sufficiency standard.''; and

[(5) in subsection (d), by striking ''112(a)(2)'' and inserting ''112(a)(2)(A)''.

[SEC. 114. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

[Section 131 (20 U.S.C. 2351) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career'';

[(2) by striking subsection (a);

[(3) by redesignating subsections (b) through (i) as subsections (a) through (h), respectively;

[(4) in subsection (a) (as redesignated by paragraph (3) of this section)—

[(A) in the subsection heading, by striking ''SPECIAL DISTRIBUTION RULES FOR SUCCEEDING FISCAL YEARS'' and inserting ''DISTRIBUTION RULES''; and

[(B) by striking ''for fiscal year 2000 and succeeding fiscal years'';

[(5) in subsection (b) (as redesignated by paragraph (3) of this section)—

[(A) by striking ''subsection (b)'' and inserting ''subsection (a)''; and

[(B) in paragraph (1), by striking ''9902(2))'' and inserting ''9902(2)))'';

[(6) in subsection (e) (as redesignated by paragraph (3) of this section), in the subsection heading, by striking ''VOCATIONAL'' and inserting ''CAREER''; and

[(7) in subsection (g) (as redesignated by paragraph (3) of this section), by striking ''subsections (a), (b), (c), and (d)'' and inserting ''subsections (a), (b), and (c)''.

[SEC. 115. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.

[Section 132 (20 U.S.C. 2352) is amended by striking the section heading and inserting the following:

[''SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.''.

[SEC. 116. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.

[Section 133 (20 U.S.C. 2353) is amended—

[(1) by striking the section heading and inserting the following:

[''SEC. 133. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.'';

[and

[(2) by striking ''vocational'' each place such term appears and inserting ''career''.

[SEC. 117. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.

[Section 134 (20 U.S.C. 2354) is amended—

[(1) by striking the section heading and inserting the following:

[''SEC. 134. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.'';

[and

[(2) in subsection (b), by striking paragraphs (1) through (10) and inserting the following:

[''(1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;

[''(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;

[''(3) describe how the eligible recipient will—

[''(A) offer the appropriate courses of not less than 1 of the career pathways described in section 122(c)(1)(A);

[''(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of challenging academics with career and technical education programs through a coherent sequence of courses to ensure learning in the core academic subjects, and career and technical education subjects;

[''(C) provide students with strong experience in and understanding of all aspects of an industry; and

[''(D) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

[''(4) describe how comprehensive professional development will be provided that is consistent with section 122;

[''(5) describe how parents, students, academic and career and technical education teachers, faculty, principals, administrators, career guidance and academic counselors, representatives of tech-prep consortia (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted under this title,

and how such individuals and entities are effectively informed about, and assisted in, understanding, the requirements of this title, including career pathways;

[''(6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;

[''(7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;

[''(8) describe how the eligible recipient—

[''(A) will review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

[''(B) will provide programs that are designed to enable the special populations to meet the local adjusted levels of performance and prepare for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency;

[''(9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;

[''(10) describe how funds will be used to promote preparation for nontraditional fields;

[''(11) describe how career guidance and academic counseling will be provided to all career and technical education students; and

[''(12) describe efforts to improve the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession, and the transition to teaching from business and industry.''.

[SEC. 118. LOCAL USES OF FUNDS.

[Section 135 (20 U.S.C. 2355) is amended—

[(1) in subsection (a), by striking ''vocational'' and inserting ''career'';

[(2) in subsection (b)—

[(A) in the matter preceding paragraph (1), by striking ''vocational'' and inserting ''career''; and

[(B) by striking paragraphs (1) through (8) and inserting the following:

[''(1) strengthen the academic and career and technical education skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career pathways described in section 122(c)(1)(A), to ensure learning in the core academic subjects and career and technical education subjects;

[''(2) link secondary career and technical education and postsecondary career and technical education, including by—

[''(A) offering the relevant elements of not less than 1 career pathway described in section 122(c)(1)(A);

[''(B) developing and supporting articulation agreements between secondary and postsecondary institutions; or

[''(C) supporting tech-prep programs and consortia;

[''(3) provide students with strong experience in and understanding of all aspects of an industry;

[''(4) develop, improve, or expand the use of technology in career and technical education, which may include—

[''(A) training of career and technical education teachers, faculty, principals, and administrators to use technology, including distance learning; or

[''(B) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs;

[''(5) provide professional development programs that are consistent with section 122 to secondary and postsecondary teachers, faculty, principals, administrators, and career guidance and academic counselors who are involved in integrated career and technical education programs, including—

[''(A) in-service and pre-service training—

[''(i) in career and technical education programs and techniques;

[''(ii) in effective integration of challenging academic and career and technical education jointly with academic teachers, to the extent practicable;

[''(iii) in effective teaching skills based on research that includes promising practices; and

[''(iv) in effective practices to improve parental and community involvement;

[''(B) support of education programs that provide information on all aspects of an industry;

[''(C) internship programs that provide relevant business experience; and

[''(D) programs dedicated to the effective use of instructional technology;

[''(6) develop and implement evaluations of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

[''(7) initiate, improve, expand, and modernize quality career and technical education programs, including relevant technology;

[''(8) provide services and activities that are of sufficient size, scope, and quality to be effective; and

[''(9) provide activities to prepare special populations, including single parents and displaced homemakers, for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency.''; and

[(3) in subsection (c)—

[(A) in paragraph (1), by striking ''vocational'' and inserting ''career''; and

[(B) by striking paragraphs (2) through (15) and inserting the following:

[''(2) to provide career guidance and academic counseling that is based on current labor market indicators, as provided pursuant to section 118, for students participating in career and technical education programs that—

[''(A) improves graduation rates and provides information on postsecondary and career options for secondary students, which activities may include the use of graduation and career plans; and

[''(B) provides assistance for postsecondary students, including for adult students who are changing careers or updating skills;

[''(3) for partnerships between the eligible recipient and businesses, including small businesses and business intermediaries, including for—

[''(A) work-related experience for students, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to career and technical education programs;

[''(B) adjunct faculty arrangements at the secondary and postsecondary levels; and

[''(C) industry experience for teachers and faculty;

[''(4) to provide programs for special populations;

[''(5) to assist career and technical student organizations;

[''(6) for mentoring and support services;

[''(7) for leasing, purchasing, upgrading, or adapting instructional equipment;

[''(8) for teacher preparation programs that address the integration of academic and career and technical education and that assist individuals who are interested in becoming career and technical education teachers and faculty, including individuals with experience in business and industry;

[''(9) to develop and expand postsecondary program offerings at times and in formats that are convenient and accessible for working students, including through the use of distance education;

[''(10) for improving or developing new career and technical education courses, including development of new career pathways;

[''(11) to develop and support small, personalized career-themed learning communities;

[''(12) to provide support for family and consumer sciences programs;

[''(13) to provide career and technical education programs for adults and school dropouts to complete their secondary school education or upgrade their technical skills;

[''(14) to provide assistance to individuals who have participated in services and activities under this title in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

[''(15) to support activities in nontraditional fields, such as mentoring and outreach; and

[''(16) to support other career and technical education activities that are consistent with the purpose of this Act.''.

[SEC. 119. TECH-PREP EDUCATION.

[(a) REDESIGNATION.—Title II (20 U.S.C. 2371 et seq.) is amended—

[(1) by striking the title heading and inserting the following:

[''PART D—TECH-PREP EDUCATION'';

[(2) by striking sections 201, 202, 206, and 207; and

[(3) by redesignating sections 203, 204, 205, and 208, as sections 141, 142, 143, and 144, respectively.

[(b) STATE ALLOTMENT AND APPLICATION.—Section 141 (as redesignated by subsection (a) of this section) is amended—

[(1) in subsection (a), by striking ''section 206'' and inserting ''section 144''; and

[(2) by striking subsection (c) and inserting the following:

[''(c) STATE APPLICATION.—Each eligible agency desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall describe how activities under this part will be coordinated, to the extent practicable, with activities described in section 122.''.

[(c) TECH-PREP EDUCATION.—Section 142 (as redesignated by subsection (a) of this section) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1)—

[(i) by striking ''section 203'' and inserting ''section 141'';

[(ii) by striking ''title'' and inserting ''part'';

[(iii) by striking ''vocational'' both places the term appears and inserting ''career''; and

[(iv) in subparagraph (A), by inserting '', educational service agency,'' after ''intermediate educational agency''; and

[(B) in paragraph (2)—

[(i) in subparagraph (A), by striking ''and'';

[(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

[(iii) by adding at the end the following:

[''(C) employers, including small businesses, or business intermediaries; and

[''(D) labor organizations.'';

[(2) in subsection (c)—

[(A) by striking paragraph (2) and inserting the following:

[''(2) consist of not less than 2 years of secondary school with a common core of technical skills and core academic subjects preceding graduation and 2 years or more of higher education, or an apprenticeship program of not less than 2 years following secondary instruction, designed to lead to technical skill proficiency, a credential, a certificate, or a degree, in a specific career field;'';

[(B) in paragraph (3)(B), by inserting ''including through the use of articulation agreements, and'' after ''career fields,'';

[(C) by striking paragraph (4) and inserting the following:

[''(4) include in-service professional development for teachers, faculty, principals, and administrators that—

[''(A) supports effective implementation of tech-prep programs;

[''(B) supports joint training in the tech-prep consortium;

[''(C) supports the needs, expectations, and methods of business and all aspects of an industry;

[''(D) supports the use of contextual and applied curricula, instruction, and assessment;

[''(E) supports the use and application of technology; and

[''(F) assists in accessing and utilizing data, including labor market indicators, achievement, and assessments;'';

[(D) in paragraph (5)—

[(i) by striking ''training'' and inserting ''professional development'';

[(ii) in subparagraph (B), by inserting '', which may include through the use of graduation and career plans'' after ''programs'';

[(iii) in subparagraph (D), by striking ''and'';

[(iv) in subparagraph (E), by inserting ''and'' after the semicolon; and

[(v) by adding at the end the following:

[''(F) provide comprehensive career guidance and academic counseling to participating students, including special populations;'';

[(E) in paragraph (6)—

[(i) by inserting ''(including pre-apprenticeship programs)'' after ''programs''; and

[(ii) by striking ''and'' after the semicolon;

[(F) in paragraph (7), by striking the period at the end and inserting ''; and''; and

[(G) by adding at the end the following:

[''(8) coordinate with activities conducted under this title.''; and

[(3) in subsection (d)—

[(A) in paragraph (2), by striking ''and'' after the semicolon;

[(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

[(C) by adding at the end the following:

[''(4) improve career guidance and academic counseling for participating students through the development and implementation of graduation and career plans; and

[''(5) develop curriculum that supports effective transitions between secondary and postsecondary career and technical education programs.''.

[(d) CONSORTIUM APPLICATIONS.—Section 143 (as redesignated by subsection (a) of this section) is amended—

[(1) in subsection (a), by striking ''title'' and inserting ''part'';

[(2) in subsection (b)—

[(A) by striking ''5'' and inserting ''6''; and

[(B) by striking ''title'' and inserting ''part'';

[(3) in subsection (d)—

[(A) in paragraph (1), by inserting ''or advanced'' after ''baccalaureate'';

[(B) by striking paragraph (4) and inserting the following:

[''(4) provide education and training in areas or skills, including emerging technology, in which there are significant workforce shortages based on the data provided by the entity in the State under section 118;'';

[(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

[(D) by adding at the end the following:

[''(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C.''; and

[(4) in subsection (e), by striking ''title'' and inserting ''part''.

[(e) AUTHORIZATION OF APPROPRIATIONS.—Section 144 (as redesignated by subsection (a) of this section) is amended—

[(1) by striking ''title (other than section 207)'' and inserting ''part''; and

[(2) by striking ''1999 and each of the 4'' and inserting ''2006 and each of the 5''.

[TITLE II—GENERAL PROVISIONS

[SEC. 201. REDESIGNATION OF TITLE.

[(a) FEDERAL ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 311 through 318 as sections 211 through 218, respectively.

[(b) STATE ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 321 through 325 as sections 221 through 225, respectively.

[(c) TITLE HEADING.—The title heading of title III (20 U.S.C. 2391 et seq.) is amended to read as follows:

["TITLE II—GENERAL PROVISIONS".

[SEC. 202. FISCAL REQUIREMENTS.

[Section 211 (as redesignated by section 201 of this Act) is amended—

[(1) by striking ''vocational'' each place the term appears and inserting ''career''; and

[(2) in subsection (b)—

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

[''(1) DETERMINATION.—

[''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for career and technical education programs or tech-prep programs unless the Secretary determines that the average fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the 3 fiscal years preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs, for the 3 fiscal years preceding the fiscal year for which the determination is made.

[''(B) COMPUTATION.—In computing the average fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

[''(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for career and technical education programs under this Act for a fiscal year is less than the amount made available for career and technical education programs under this Act for the preceding fiscal year, then the average fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the 3 preceding fiscal years shall be decreased by the same percentage as the percentage decrease in the amount so made available.''; and

[(B) in paragraph (2), by striking ''fiscal effort'' both places the term appears and inserting ''average fiscal effort''.

[SEC. 203. VOLUNTARY SELECTION AND PARTICIPATION.

[Section 214 (as redesignated by section 201 of this Act) is amended by striking ''vocational'' both places the term appears and inserting ''career''.

[SEC. 204. LIMITATION FOR CERTAIN STUDENTS.

[Section 215 (as redesignated by section 201 of this Act) is amended by striking ''vocational'' and inserting ''career''.

[SEC. 205. AUTHORIZATION OF SECRETARY; PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.

[Part A of title II (as redesignated by section 201 of this Act) is amended—

[(1) by striking section 217;

[(2) by redesignating section 218 as section 217; and

[(3) in section 217 (as redesignated by paragraph (2) of this section)—

[(A) by inserting ''principals,'' after ''for vocational and technical education teachers,'';

[(B) by inserting ''principals,'' after ''of vocational and technical education teachers,''; and

[(C) by striking ''vocational'' each place the term appears and inserting ''career''.

[SEC. 206. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

[Section 225(c) (as redesignated by section 201 of this Act) is amended—

[(1) in the subsection heading, by striking ''VOCATIONAL'' and inserting ''CAREER''; and

[(2) by striking ''vocational'' both places the term appears and inserting ''career''.

[SEC. 207. TABLE OF CONTENTS.

[Section 1(b) (20 U.S.C. 2301 note) is amended to read as follows:

[''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Carl D. Perkins Career and Technical Education Improvement Act of 2005''.

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

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

SEC. 3. PURPOSE.

Section 2 (20 U.S.C. 2301) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in paragraph (1), by striking ''standards'' and inserting ''and technical standards, and to assist students in meeting such standards, including student academic achievement standards, especially in preparation for high skill, high wage, or high demand occupations in emerging or established professions'';

(3) in paragraph (2), by inserting ''challenging'' after ''integrate'';

(4) in paragraph (3), by striking ''and'' after the semicolon;

(5) in paragraph (4)—

(A) by inserting ''conducting and'' before ''disseminating national'';

(B) by inserting ''disseminating information on best practices,'' after ''national research,''; and

(C) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following:

''(5) promoting leadership, initial preparation, and professional development at the State and local levels, and developing research and best practices for improving the quality of career and technical education teachers, faculty, principals, administrators, and counselors;

''(6) supporting partnerships among secondary schools, postsecondary institutions, baccalaureate degree granting institutions, area career technical centers, local workforce investment boards, business and industry, professional associations, and intermediaries; and

''(7) developing a highly skilled workforce needed to keep America competitive in the global economy in conjunction with other Federal education and training programs, including workforce investment programs, that provide lifelong learning for the workforce of today and tomorrow.''.

SEC. 4. DEFINITIONS.

Section 3 (20 U.S.C. 2302) is amended—

(1) by striking paragraphs (29) and (30);

(2) by redesignating paragraphs (5), (6), (7) through (12), (13) through (16), (17) through (22), and (23) through (28), as paragraphs (10), (12), (14) through (19), (21) through (24), (26) through (31), and (33) through (38), respectively;

(3) in paragraph (2), by inserting '', including employment statistics and information relating to national, regional, and local labor market areas, as provided pursuant to section 118, and career ladder information, where appropriate'' after ''to enter'';

(4) in paragraph (3)—

(A) in the paragraph heading, by striking ''VOCATIONAL'' and inserting ''CAREER''; and

(B) by striking ''vocational'' each place the term appears and inserting ''career'';

(5) by striking paragraph (4) and inserting the following:

''(4) ARTICULATION AGREEMENT.—The term 'articulation agreement' means a written commitment—

''(A) that is approved annually by the relevant administrators of—

''(i) a secondary institution and a postsecondary educational institution; or

''(ii) a sub-baccalaureate degree granting postsecondary educational institution and a baccalaureate degree granting postsecondary educational institution; and

''(B) to a program that is designed to provide students with a nonduplicative sequence of progressive achievement leading to technical skill proficiency, a credential, a certificate, or a degree, and linked through credit transfer agreements.'';

(6) by inserting after paragraph (4) (as amended by paragraph (5)) the following:

''(5) CAREER AND TECHNICAL EDUCATION.—The term 'career and technical education' means organized educational activities that—

''(A) offer a sequence of courses (which may include work-based learning experiences) that—

''(i) provides individuals with the challenging academic and technical knowledge and skills the individuals need to prepare for further education and for careers in emerging and established professions; and

''(ii) may lead to technical skill proficiency, a credential, a certificate, or a degree; and

''(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

''(6) CAREER AND TECHNICAL EDUCATION STUDENT.—The term 'career and technical education student' means a student who enrolls in a clearly defined sequence of career and technical education courses (which may include work-based learning experiences) leading to attainment of technical skill proficiency, a credential, a certificate, or a degree.

''(7) CAREER AND TECHNICAL STUDENT ORGANIZATION.—

''(A) IN GENERAL.—The term 'career and technical student organization' means an organization for individuals enrolled in a career and technical education program that engages in career and technical education activities as an integral part of the instructional program.

''(B) STATE AND NATIONAL UNITS.—An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in career and technical education at the local level.

''(8) CAREER GUIDANCE AND ACADEMIC COUNSELING.—The term 'career guidance and academic counseling' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve guidance and counseling with respect to career options, including baccalaureate degree programs, financial aid, and postsecondary options.

''(9) CAREER PATHWAY.—The term 'career pathway' means a coordinated and nonduplicative sequence of courses (which may include work-based learning experiences) and associated credits that—

''(A) shall identify both secondary and postsecondary education elements;

''(B) shall include challenging academic and career and technical education content that adequately prepares students to pursue the postsecondary education element identified under subparagraph (A);

''(C) may include the opportunity for secondary students to participate in dual or concurrent enrollment programs or other ways to acquire postsecondary credits; and

''(D) culminates in technical skill proficiency, an industry-recognized credential, a certificate, a degree, or completion of a recognized apprenticeship program.'';

(7) in paragraph (10) (as redesignated by paragraph (2)), by striking ''5206'' and inserting ''5210'';

(8) by inserting after paragraph (10) (as redesignated by paragraph (2)) the following:

''(11) COMMUNITY COLLEGE.—The term 'community college'—

''(A) means an institution of higher education, as defined in section 101 of the Higher Education Act of 1965, that provides not less than a 2-year program that is acceptable for full credit toward a baccalaureate degree; and

''(B) includes tribally controlled colleges or universities.'';

(9) in paragraph (12) (as redesignated by paragraph (2))—

(A) by striking ''method of instruction'' and inserting ''method''; and

(B) by striking ''vocational'' and inserting ''career'';

(10) by inserting after paragraph (12) (as redesignated by paragraph (2) and amended by paragraph (9)) the following:

''(13) CORE ACADEMIC SUBJECTS.—The term 'core academic subjects' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965, except that under this Act such subjects included in such term shall be only those subjects in a secondary school context.'';

(11) in paragraph (16) (as redesignated by paragraph (2)), by striking ''vocational'' both places the term appears and inserting ''career'';

(12) in paragraph (17) (as redesignated by paragraph (2))—

(A) in subparagraph (A), by striking ''an institution of higher education'' and inserting ''a public or nonprofit private institution of higher education that offers career and technical education courses that lead to technical skill proficiency, an industry-recognized credential, a certificate, or a degree''; and

(B) in subparagraph (C), by striking ''vocational'' and inserting ''career'';

(13) in paragraph (18)(A) (as redesignated by paragraph (2)), by striking ''agency, an area vocational'' and inserting ''agency (including a public charter school that operates as a local educational agency), an area career'';

(14) by inserting after paragraph (19) (as redesignated by paragraph (2)) the following:

''(20) GRADUATION AND CAREER PLAN.—The term 'graduation and career plan' means a written plan for a secondary career and technical education student, that—

''(A) is developed with career guidance and academic counseling or other professional staff, and in consultation with parents, not later than in the first year of secondary school or upon enrollment in career and technical education;

''(B) is reviewed annually and modified as needed;

''(C) includes relevant information on—

''(i) secondary school requirements for graduating with a diploma;

''(ii) postsecondary education admission requirements; and

''(iii) high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions, and labor market indicators; and

''(D) states the student's secondary school graduation goals, postsecondary education and training, or employment goals, and identifies 1 or more career pathways that correspond to the goals.'';

(15) by inserting after paragraph (24) (as redesignated by paragraph (2)) the following:

''(25) LOCAL WORKFORCE INVESTMENT BOARD.—The term 'local workforce investment board' means a local workforce investment board established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832).'';

(16) in paragraph (26) (as redesignated by paragraph (2))—

(A) in the paragraph heading, by striking ''TRAINING AND EMPLOYMENT'' and inserting ''FIELDS''; and

(B) by striking ''training and employment'' and inserting ''fields'';

(17) in paragraph (27) (as redesignated by paragraph (2)), by striking ''the Commonwealth'' and all that follows through the period and inserting ''and the Commonwealth of the Northern Mariana Islands.'';

(18) by inserting after paragraph (31) (as redesignated by paragraph (2)) the following:

''(32) SELF-SUFFICIENCY.—The term 'self-sufficiency' means a standard that is adopted, calculated, or commissioned by a local area or State, and which adjusts for local factors, in specifying the income needs of families, by family size, the number and ages of children in the family, and sub-State geographical considerations.'';

(19) in paragraph (33) (as redesignated by paragraph (2))—

(A) in subparagraph (C), by striking ''training and employment'' and inserting ''fields''; and

(B) in subparagraph (F), by striking ''individuals with other barriers to educational achievement, including'';

(20) in paragraph (35) (as redesignated by paragraph (2)) by striking '', and instructional aids and devices'' and inserting ''instructional aids, and work supports'';

(21) by striking paragraph (36) (as redesignated by paragraph (2)) and inserting the following:

''(36) TECH-PREP PROGRAM.—The term 'tech-prep program' means a program of study that—

''(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

''(B) integrates academic and career and technical education instruction, and utilizes work-based and worksite learning where appropriate and available;

''(C) provides technical preparation in a career field, including high skill, high wage, or high demand occupations;

''(D) builds student competence in technical skills and in core academic subjects, as appropriate, through applied, contextual, and integrated instruction, in a coherent sequence of courses (which may include work-based learning experiences);

''(E) leads to technical skill proficiency, an industry-recognized credential, a certificate, or a degree, in a specific career field;

''(F) leads to placement in high skill, high wage employment or to further education; and

''(G) utilizes career pathways, to the extent practicable.''; and

(22) in paragraph (38) (as redesignated by paragraph (2))—

(A) in the paragraph heading, by striking ''VOCATIONAL'' and inserting ''CAREER'';

(B) in the matter preceding subparagraph (A)—

(i) by striking ''vocational'' and inserting ''career'';

(ii) by striking ''paragraph (2)'' and inserting ''subsection (a)(2)''; and

(iii) by striking ''paragraph (5)(A)'' and inserting ''subsection (a)(5)''; and

(C) in subparagraph (F), by striking ''vocational'' and inserting ''career''.

SEC. 5. TRANSITION PROVISIONS.

Section 4 (20 U.S.C. 2303) is amended by striking ''the Carl D. Perkins Vocational and Applied Technology Education Act'' and all that follows through the period and inserting ''this Act, as this Act was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. Each eligible agency shall be assured a full fiscal year for transition to plan for and implement the requirements of this Act.''.

SEC. 6. LIMITATION.

Section 6 (20 U.S.C. 2305) is amended by striking the second sentence.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Section 8 (20 U.S.C. 2307) is amended—

(1) by striking ''title II'' and inserting ''part D of title I''; and

(2) by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

SEC. 101. CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES.

Title I (20 U.S.C. 2321 et seq.) is amended by striking the title heading and inserting the following:

''TITLE I—CAREER AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES''.

SEC. 102. RESERVATIONS AND STATE ALLOTMENT.

Section 111(a) (20 U.S.C. 2321(a)) is amended—

(1) in paragraph (1)(C), by striking ''2001 through 2003,'' and inserting ''2006 through 2011,''; and

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) MINIMUM ALLOTMENT.—Subject to paragraph (4), no State, other than the United States Virgin Islands, shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 8 and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

''(4) HOLD HARMLESS.—

''(A) FISCAL YEARS 2006 THROUGH 2008.—Notwithstanding paragraph (3), no State shall receive an allotment under this section for each of the fiscal years 2006 through 2008 that is less than the allotment the State received under this part (as this part was in effect on the day before the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005) for fiscal year 2005.

''(B) FISCAL YEARS 2009 THROUGH 2011.—Notwithstanding paragraph (3), no State shall receive an allotment under this section for each of the fiscal years 2009 through 2011 that is less than 95 percent of the allotment the State received under this section for the preceding fiscal year.

''(C) RATABLE REDUCTION.—If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the requirements of subparagraph (A) or (B), the payments to all States under such subparagraph shall be ratably reduced.''.

SEC. 103. WITHIN STATE ALLOCATION.

Section 112 (20 U.S.C. 2322) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by adding ''and'' after the semicolon; and

(B) by striking paragraphs (2) and (3) and inserting the following:

''(2) not more than 15 percent or $750,000, whichever is greater, for—

''(A) State leadership activities described in section 124, of which—

''(i) an amount determined by the eligible agency shall be made available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

''(ii) not less than $60,000 shall be available for services that prepare individuals for nontraditional fields; and

''(B) administration of the State plan, which may be used for the costs of—

''(i) developing the State plan;

''(ii) reviewing the local plans;

''(iii) monitoring and evaluating program effectiveness;

''(iv) assuring compliance with all applicable Federal laws;

''(v) providing technical assistance; and

''(vi) supporting and developing State data systems relevant to the provisions of this Act.'';

(2) in subsection (b), by striking ''subsection (a)(3)'' both places the term appears and inserting ''subsection (a)(2)(B)''; and

(3) by striking subsection (c) and inserting the following:

''(c) RESERVE.—From amounts made available under subsection (a)(1) to carry out this subsection, an eligible agency may—

''(1) award grants to eligible recipients, or consortia of eligible recipients, for career and technical education activities described in section 135 in—

''(A) rural areas; or

''(B) areas with high percentages or high numbers of career and technical education students;

''(2) reserve funds, with the approval of participating eligible recipients, for—

''(A) innovative statewide initiatives that demonstrate benefits for eligible recipients, which may include—

''(i) developing and implementing technical assessments;

''(ii) improving the initial preparation and professional development of career and technical education teachers, faculty, principals, administrators, and counselors; and

''(iii) establishing, enhancing, and supporting systems for accountability data collection or reporting purposes; or

''(B) the development and implementation of career pathways or career clusters; and

''(3) carry out activities described in paragraphs (1) and (2).''.

SEC. 104. ACCOUNTABILITY.

Section 113 (20 U.S.C. 2323) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in subsection (a)—

(A) by striking ''a State performance accountability system'' and inserting ''and support State and local performance accountability systems''; and

(B) by inserting ''and its eligible recipients'' after ''of the State'';

(3) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''paragraph (2)(A)'' and inserting ''subparagraphs (A) and (B) of paragraph (2)''; and

(ii) in subparagraph (B), by striking ''(2)(B)'' and inserting ''(2)(C)'';

(B) in paragraph (2)—

(i) by striking subparagraph (A) and inserting the following:

''(A) CORE INDICATORS OF PERFORMANCE FOR SECONDARY CAREER AND TECHNICAL EDUCATION STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for secondary career and technical education students that include, at a minimum, measures of each of the following:

''(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.

''(ii) Student attainment of challenging academic content standards and student academic achievement standards, as adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and measured by the academic assessments described in section 1111(b)(3) of such Act, consistent with State requirements.

''(iii) Student rates of attainment of—

''(I) a secondary school diploma;

''(II) the recognized equivalent of a secondary school diploma;

''(III) technical skill proficiency;

''(IV) an industry-recognized credential;

''(V) a certificate; and

''(VI) a degree.

''(iv) Placement in postsecondary education, military service, apprenticeship programs, or employment.

''(v) Student participation in, and completion of, career and technical education programs that lead to employment or self-employment in nontraditional fields.'';

(ii) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively;

(iii) by inserting after subparagraph (A) the following:

''(B) CORE INDICATORS OF PERFORMANCE FOR POSTSECONDARY CAREER AND TECHNICAL STUDENTS.—Each eligible agency shall identify in the State plan core indicators of performance for postsecondary career and technical education students that include, at a minimum, measures of each of the following:

''(i) Student achievement on technical assessments and attainment of career and technical skill proficiencies that are aligned with nationally recognized industry standards, if available and appropriate.

''(ii) Student attainment of technical skill proficiency, an industry-recognized credential, a certificate, or a degree, or retention in postsecondary education, including transfer to a baccalaureate degree program.

''(iii) Placement in military service, apprenticeship programs, or employment.

''(iv) Student participation in, and completion of, career and technical education programs that lead to employment or self-employment in—

''(I) nontraditional fields; and

''(II) high skill, high wage, high demand occupations or professions.

''(v) Increase in earnings, where available.'';

(iv) in subparagraph (C) (as redesignated by clause (ii) of this subparagraph), by striking ''the title.'' and inserting ''this title, such as attainment of self-sufficiency.'';

(v) in subparagraph (D) (as redesignated by clause (ii) of this subparagraph), by inserting ''career and technical education'' after ''developed State'';

(vi) in subparagraph (E) (as redesignated by clause (ii) of this subparagraph)—

(I) by striking ''this paragraph'' and inserting ''subparagraphs (A) and (B)'';

(II) by striking ''solely''; and

(III) by striking ''recipients.'' and inserting ''recipients, and shall meet the requirements of this section.''; and

(vii) by adding at the end the following:

''(F) ALIGNMENT OF PERFORMANCE INDICATORS.—In the course of identifying core indicators of performance and additional indicators of performance, States shall, to the greatest extent possible, define the indicators so that substantially similar information gathered for other State and Federal programs, or any other purpose, is used to meet the requirements of this section.'';

(C) in paragraph (3)—

(i) in the paragraph heading, by striking ''LEVELS'' and inserting ''STATE LEVELS'';

(ii) in subparagraph (A)—

(I) in clause (i)—

(aa) by striking ''paragraph (2)(A)'' and inserting ''subparagraphs (A) and (B) of paragraph (2)'';

(bb) by inserting ''after taking into account the local adjusted levels of performance and'' after ''eligible agency,''; and

(cc) by striking subclause (II) and inserting the following:

''(II) require the eligible recipients to make continuous and significant improvement in career and technical achievement of career and technical education students, including special populations.'';

(II) in clause (v)—

(aa) in the clause heading, by striking ''3RD, 4TH, AND 5TH'' and inserting ''SUBSEQUENT'';

(bb) by striking ''third program year'' and inserting ''third and fifth program years''; and

(cc) by striking ''third, fourth, and fifth'' and inserting ''corresponding subsequent'';

(III) in clause (vi)(II), by inserting ''and significant'' after ''continuous''; and

(IV) in clause (vii), by striking ''or (vi)'' and inserting ''or (v)''; and

(iii) in subparagraph (B), by striking ''(2)(B)'' and inserting ''(2)(C)''; and

(D) by adding at the end the following:

''(4) LOCAL LEVELS OF PERFORMANCE.—

''(A) LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR CORE INDICATORS OF PERFORMANCE.—

''(i) IN GENERAL.—Each eligible recipient shall agree to accept the State adjusted levels of performance established under paragraph (3) as local adjusted levels of performance, or negotiate with the State to reach agreement on new local adjusted levels of performance, for each of the core indicators of performance described in subparagraphs (A) and (B) of paragraph (2) for career and technical education activities authorized under this title. The levels of performance established under this subparagraph shall, at a minimum—

''(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

''(II) require the eligible recipient to make continuous and significant improvement in career and technical achievement of career and technical education students.

''(ii) IDENTIFICATION IN THE LOCAL PLAN.—Each eligible recipient shall identify, in the local plan submitted under section 134, levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan.

''(iii) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR FIRST 2 YEARS.—The eligible agency and each eligible recipient shall reach agreement, as described in clause (i), on the eligible recipient's levels of performance for each of the core indicators of performance for the first 2 program years covered by the local plan, taking into account the levels identified in the local plan under clause (ii) and the factors described in clause (v). The levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan prior to the approval of such plan.

''(iv) AGREEMENT ON LOCAL ADJUSTED LEVELS OF PERFORMANCE FOR SUBSEQUENT YEARS.—Prior to the third and fifth program years covered by the local plan, the eligible agency and each eligible recipient shall reach agreement on the local adjusted levels of performance for each of the core indicators of performance for the corresponding subsequent program years covered by the local plan, taking into account the factors described in clause (v). The local adjusted levels of performance agreed to under this clause shall be considered to be the local adjusted levels of performance for the eligible recipient for such years and shall be incorporated into the local plan.

''(v) FACTORS.—The agreement described in clause (iii) or (iv) shall take into account—

''(I) how the levels of performance involved compare with the local adjusted levels of performance established for other eligible recipients, taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

''(II) the extent to which the local adjusted levels of performance involved promote continuous and significant improvement on the core indicators of performance by the eligible recipient.

''(vi) REVISIONS.—If unanticipated circumstances arise with respect to an eligible recipient resulting in a significant change in the factor described in clause (v)(II), the eligible recipient may request that the local adjusted levels of performance agreed to under clause (iii) or (iv) be revised. The eligible agency shall issue objective criteria and methods for making such revisions.

''(B) LEVELS OF PERFORMANCE FOR ADDITIONAL INDICATORS.—Each eligible recipient may identify, in the local plan, local levels of performance for any additional indicators of performance described in paragraph (2)(C). Such levels shall be considered to be the local levels of performance for purposes of this title.

''(C) REPORT.—Each eligible recipient that receives an allocation under section 131 shall publicly report, on an annual basis, its progress in achieving the local adjusted levels of performance on the core indicators of performance.''; and

(4) by striking subsection (c)(1)(B) and inserting:

''(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance disaggregated for postsecondary institutions, by special populations and gender, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a

case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual.''.

SEC. 105. NATIONAL ACTIVITIES.

Section 114 (20 U.S.C. 2324) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in subsection (a)(1), by striking '', including an analysis of performance data regarding special populations'' and inserting '', including an analysis of performance data that is disaggregated for postsecondary institutions, by special populations, and for secondary institutions, by special populations and by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual'';

(3) in subsection (c)—

(A) by striking paragraph (2) and inserting the following:

''(2) INDEPENDENT ADVISORY PANEL.—

''(A) IN GENERAL.—The Secretary shall appoint an independent advisory panel to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed and the methodology of the studies involved to ensure that the assessment adheres to the highest standards of quality.

''(B) MEMBERS.—The advisory panel shall consist of—

''(i) educators, principals, administrators, and chief executives (including State directors of career and technical education), with expertise in the integration of academic and career and technical education;

''(ii) experts in evaluation, research, and assessment;

''(iii) representatives of labor organizations and businesses, including small businesses, economic development entities, and State workforce investment boards established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821) or local workforce investment boards;

''(iv) parents;

''(v) career guidance and academic counseling professionals; and

''(vi) other individuals and intermediaries with relevant expertise.

''(C) INDEPENDENT ANALYSIS.—The advisory panel shall transmit to the Secretary and to the relevant committees of Congress an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3).

''(D) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this paragraph.'';

(B) in paragraph (3)—

(i) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—From amounts made available under subsection (d), the Secretary shall provide for the conduct of an independent evaluation and assessment of career and technical education programs under this Act, including the implementation of the Carl D. Perkins Career and Technical Education Improvement Act of 2005, to the extent practicable, through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.'';

(ii) in subparagraph (B)—

(I) by striking clause (iii) and inserting the following:

''(iii) the preparation and qualifications of teachers and faculty of career and technical education, as well as shortages of such teachers and faculty;'';

(II) by striking clause (v) and inserting the following:

''(v) academic and career and technical education achievement and employment outcomes of career and technical education students, including analyses of—

''(I) the number of career and technical education students and tech-prep students who meet the State adjusted levels of performance established under section 113;

''(II) the extent and success of integration of challenging academic and career and technical education for students participating in career and technical education programs;

''(III) the extent to which career and technical education programs prepare students, including special populations, for subsequent employment in high skill, high wage occupations, or participation in postsecondary education; and

''(IV) the number of career and technical education students receiving a high school diploma;'';

(III) in clause (vi), by inserting '', and career and technical education students' preparation for employment'' after ''programs''; and

(IV) in clause (viii), by inserting ''and local'' after ''State'' both places such term appears; and

(iii) in subparagraph (C)—

(I) in clause (i)—

(aa) by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress''; and

(bb) by striking ''2002'' both places it appears and inserting ''2009''; and

(II) in clause (ii), by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress'';

(C) in paragraph (4)(B), by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress'';

(D) in paragraph (5)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking ''higher education'' and all that follows through ''centers'' and inserting ''higher education offering comprehensive graduate programs in career and technical education that shall be the primary recipient and shall collaborate with a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies, to establish a national research center'';

(II) in clause (i)—

(aa) by inserting ''and evaluation'' after ''to carry out research''; and

(bb) by inserting '', including special populations,'' after ''participants'';

(III) by redesignating clauses (ii), (iii), and (iv), as clauses (iii), (iv), and (v), respectively;

(IV) by inserting after clause (i) the following:

''(ii) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the needs of employers in high skill, high wage business and industry, including evaluation and scientifically based research of—

''(I) collaboration between career and technical education programs and business and industry;

''(II) academic and technical skills required to respond to the challenge of a global economy and rapid technological changes; and

''(III) technical knowledge and skills required to respond to needs of a regional or sectoral workforce, including small business;'';

(V) in clause (iii) (as redesignated by subclause (III) of this clause), by inserting ''that are integrated with challenging academic instruction'' before '', including''; and

(VI) by striking clause (iv) (as redesignated by subclause (III) of this clause) and inserting the following:

''(iv) to carry out scientifically based research, where appropriate, that can be used to improve preparation and professional development of teachers, faculty, principals, and administrators and student learning in the career and technical education classroom, including—

''(I) effective in-service and pre-service teacher and faculty education that assists career and technical education programs in—

''(aa) integrating those programs with academic content standards and student academic achievement standards, as adopted by States under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

''(bb) promoting technical education aligned with industry-based standards and certifications to meet regional industry needs;

''(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on career and technical education skills, State academic standards, and related materials; and

''(III) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and'';

(ii) in subparagraph (B)—

(I) by striking ''or centers'' both places the term appears; and

(II) by striking ''Committee on Education'' and all that follows through ''Senate'' and inserting ''relevant committees of Congress'';

(iii) in subparagraph (C), by striking ''or centers''; and

(iv) by adding at the end the following:

''(D) INDEPENDENT GOVERNING BOARD.—

''(i) IN GENERAL.—An institution of higher education that desires a grant, contract, or cooperative agreement under this paragraph shall identify, in its application, an independent governing board for the center established pursuant to this paragraph.

''(ii) MEMBERS.—The independent governing board shall consist of the following:

''(I) Two representatives of secondary career and technical education.

''(II) Two representatives of postsecondary career and technical education.

''(III) Two representatives of eligible agencies.

''(IV) Two representatives of business and industry.

''(V) Two representatives of career and technical teacher preparation institutions.

''(VI) Two nationally recognized researchers in the field of career and technical education.

''(iii) COORDINATION.—The independent governing board shall ensure that the research and dissemination activities carried out by the center are coordinated with the research activities carried out by the Secretary.'';

(E) in paragraph (6)(B)(ii), by striking ''or centers''; and

(F) by striking paragraph (8); and

(4) by adding at the end the following:

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2011.''.

SEC. 106. ASSISTANCE FOR THE OUTLYING AREAS.

Section 115 (20 U.S.C. 2325) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia,'';

(B) in paragraph (1), by striking ''training and retraining;'' and inserting ''preparation;'';

(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(D) by inserting after paragraph (1) the following:

''(2) professional development for teachers, faculty, principals, and administrators;''; and

(3) in subsection (d)—

(A) by striking ''the Republic of the Marshall Islands, the Federated States of Micronesia, and''; and

(B) by striking ''2001'' and inserting ''2007''.

SEC. 107. NATIVE AMERICAN PROGRAM.

Section 116 (20 U.S.C. 2326) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in subsection (a)(5), by adding a period at the end;

(3) in subsection (b)—

(A) in paragraph (1), by striking ''(d)'' and inserting ''(c)''; and

(B) in paragraph (2), by striking ''(other than in subsection (i))'';

(4) in subsection (d), by striking ''section an'' and inserting ''section, an'';

(5) in subsection (e), by striking ''paragraph'' and inserting ''section''; and

(6) in subsection (h), by striking ''which are recognized by the Governor of the State of Hawaii''.

SEC. 108. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.

Section 117 (20 U.S.C. 2327) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 117. TRIBALLY CONTROLLED POSTSECONDARY CAREER AND TECHNICAL INSTITUTIONS.'';

(2) by striking ''vocational'' each place the term appears and inserting ''career'';

(3) in subsection (g)—

(A) in paragraph (1), by striking ''The Secretary'' and inserting ''On an annual basis, the Secretary'';

(B) in paragraph (2)(B), by striking ''2000'' and inserting ''2007''; and

(C) in paragraph (3)(C), by striking ''beginning'' and all that follows through the period and inserting ''beginning on the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005.'';

(4) by redesignating subsections (h) and (i) as subsections (j) and (k), respectively;

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

''(h) APPEALS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall provide a tribally controlled postsecondary career and technical institution with a hearing on the record before an administrative law judge with respect to the following determinations:

''(A) A determination that such institution is not eligible for a grant under this section.

''(B) A determination regarding the calculation of the amount of a grant awarded under this section.

''(2) PROCEDURE FOR APPEAL.—To appeal a determination described in paragraph (1), a tribally controlled postsecondary career and technical institution shall—

''(A) in the case of an appeal based on a determination that such institution is not eligible for a grant under this section, file a notice of appeal with the Secretary not later than 30 days after receipt of such determination; and

''(B) in the case of an appeal based on a determination regarding the calculation of the amount of a grant awarded under this section—

''(i) file a notice of appeal with the Secretary not later than 30 days after receipt of the Secretary's notification of the grant amount; and

''(ii) identify the amount of funding that gives rise to such appeal.

''(3) WITHHOLDING OF AMOUNT.—If a tribally controlled postsecondary career and technical institution appeals a determination described in paragraph (1), the Secretary shall withhold the amount in dispute from the award of grant funds under this section until such time as the administrative law judge has issued a written decision on the appeal.

''(i) RESTRICTED INDIRECT COST.—Notwithstanding any other provision of law, the Secretary shall not request the use of a restricted indirect cost rate for grants awarded under this section.''; and

(6) by striking subsection (k) (as redesignated by paragraph (4) of this section) and inserting the following:

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2006 and such sums as may be necessary for each of the 5 succeeding fiscal years.''.

SEC. 109. OCCUPATIONAL AND EMPLOYMENT INFORMATION.

Section 118 (20 U.S.C. 2328) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''(f)'' and inserting ''(g)'';

(B) in paragraph (1)—

(i) in subparagraph (A), by striking ''(b)'' both places it appears and inserting ''(c)'';

(ii) in subparagraph (B), by striking ''(b)'' and inserting ''(c)''; and

(iii) in subparagraph (C), by striking ''(b)'' and inserting ''(c)''; and

(C) in paragraph (2), by striking ''(b)'' both places it appears and inserting ''(c)'';

(2) by redesignating subsections (b) through (f) as subsections (c) through (g), respectively;

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

''(b) STATE APPLICATION.—

''(1) IN GENERAL.—Each State desiring assistance under this section shall submit an application to the Secretary at the same time the State submits its State plan under section 122, in such manner, and accompanied by such additional information, as the Secretary may reasonably require.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

''(A) a description of how the State entity designated in subsection (c) will provide information based on labor market trends to inform program development; and

''(B) information about the academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965.'';

(4) in subsection (c) (as redesignated by paragraph (2) of this section)—

(A) in paragraph (1), by striking ''individuals'' and all that follows through the semicolon and inserting ''students and parents, including postsecondary education and training, including academic and technical preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging or established professions;'';

(B) in paragraph (2), by inserting ''academic and career and technical'' after ''relate'';

(C) by striking paragraph (3) and inserting the following:

''(3) to equip teachers, faculty, administrators, and counselors with the knowledge, skills, and occupational information needed to assist parents and all students, especially special populations underrepresented in certain careers, with career exploration, educational opportunities, education financing, and exposure to high skill, high wage, or high demand occupations and nontraditional fields, including occupations and fields requiring a baccalaureate degree;'';

(D) in paragraph (4), by striking ''such entities;'' and inserting ''such entities, with an emphasis on high skill, high wage, or high demand occupations in emerging or established professions;'';

(E) in paragraph (5), by striking ''and'' after the semicolon;

(F) in paragraph (6), by striking the period and inserting ''; and''; and

(G) by adding at the end the following:

''(7) to provide information, if available, for each occupation, on—

''(A) the average earnings of an individual in the occupation at entry level and after 5 years of employment;

''(B) the expected lifetime earnings; and

''(C) the expected future demand for the occupation, based on employment projections.'';

(5) in subsection (d)(1) (as redesignated by paragraph (2) of this section), by striking ''(b)'' both places it appears and inserting ''(c)'';

(6) in subsection (e)(1) (as redesignated by paragraph (2) of this section), by striking ''(b)'' and inserting ''(c)'';

(7) in subsection (f)(1) (as redesignated by paragraph (2) of this section), by striking ''an identification'' and inserting ''a description''; and

(8) in subsection (g) (as redesignated by paragraph (2) of this section), by striking ''1999 through 2003'' and inserting ''2006 through 2011''.

SEC. 110. STATE ADMINISTRATION.

Section 121 (20 U.S.C. 2341) is amended—

(1) by redesignating subsection (a)(2) as subsection (b) and indenting appropriately;

(2) by redesignating subparagraphs (A) through (D) of subsection (a)(1) as paragraphs (1) through (4), respectively, and indenting appropriately;

(3) by redesignating clauses (i) and (ii) of paragraph (4) (as redesignated by paragraph (2) of this section) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(4) by striking the following:

''(a) ELIGIBLE AGENCY RESPONSIBILITIES.—

''(1) IN GENERAL.—The responsibilities'' and inserting the following:

''(a) ELIGIBLE AGENCY RESPONSIBILITIES.—The responsibilities'';

(5) in subsection (a)(1) (as redesignated by paragraph (2) of this section), by striking ''training and employment'' and inserting ''fields'';

(6) in subsection (a)(2) (as redesignated by paragraph (2) of this section)—

(A) by inserting ''teacher and faculty preparation programs,'' after ''teachers,''; and

(B) by inserting ''all types and sizes of'' after ''representatives of''; and

(7) in subsection (b) (as redesignated by paragraph (1) of this section), by striking ''paragraph (1)'' and inserting ''subsection (a)''.

SEC. 111. STATE PLAN.

Section 122 (20 U.S.C. 2342) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''5'' and inserting ''6''; and

(ii) by adding at the end the following: ''Each eligible agency may submit a transition plan during the first full year of implementation of this Act after the date of enactment of the Carl D. Perkins Career and Technical Education Improvement Act of 2005. The transition plan shall fulfill the eligible agency's State plan submission obligation under this section.''; and

(B) in paragraph (2)(B), by striking ''5 year State plan'' and inserting ''6-year period'';

(3) by striking subsection (b)(1) and inserting the following:

''(1) IN GENERAL.—The eligible agency shall develop the State plan in consultation with academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, eligible recipients, parents, students, the State tech-prep coordinator and representatives of tech-prep consortia (if applicable), the lead State agency officials with responsibility for the programs and activities that are described in section 121(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)) and carried out by one-stop partners, the State workforce investment board, interested community members (including parent and community organizations), representatives of special populations, representatives of business and industry (including representatives of small business and economic development entities), and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.'';

(4) by striking subsection (c) and inserting the following:

''(c) PLAN CONTENTS.—The State plan shall include information that—

''(1) describes the career and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

''(A) how the eligible agency will support eligible recipients in developing or implementing career pathways for career and technical education content areas that are designed to meet relevant workforce needs, including how the eligible agency will—

''(i) support eligible recipients in developing articulation agreements between secondary and postsecondary institutions;

''(ii) support eligible recipients in using labor market information to identify career pathways that prepare individuals for high skill, high wage, or high demand occupations;

''(iii) make available information about career pathways offered by eligible recipients; and

''(iv) consult with business and industry and use industry-recognized standards and assessments, if appropriate;

''(B) the secondary and postsecondary career and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality technology in career and technical education programs;

''(C) the criteria that will be used by the eligible agency to approve eligible recipients for funds under this title, including criteria to assess the extent to which the local plan will—

''(i) promote higher levels of academic achievement;

''(ii) promote higher levels of technical skill attainment; and

''(iii) identify and address workforce needs;

''(D) how programs at the secondary level will prepare career and technical education students, including special populations to graduate from high school with a diploma;

''(E) how such programs will prepare career and technical education students, including special populations, both academically and technically, for opportunities in postsecondary education or entry into high skill, high wage, or high demand occupations in emerging or established occupations, and how participating students will be made aware of such opportunities; and

''(F) how funds will be used to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations that are aligned with business needs and industry standards, as appropriate—

''(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

''(ii) at the postsecondary level that are relevant and challenging;

''(2) describes how career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors will be provided comprehensive initial preparation and professional development, including through programs and activities that—

''(A) promote the integration of challenging academic curricula and career and technical education curricula, including opportunities for teachers to jointly develop and implement curriculum and pedagogical strategies with appropriate academic teachers;

''(B) increase the academic and career and technical education knowledge of career and technical education teachers and faculty;

''(C) are high-quality, sustained, intensive, focused on instruction, directly related to industry standards, and includes structured induction and mentoring components for new personnel, with an emphasis on identifying and addressing the needs of local businesses, including small businesses;

''(D) ensure an increasing number of career and technical education teachers and faculty meet teacher certification and licensing requirements reflecting the needs of their subject area or areas;

''(E) equip career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors with the knowledge and skills needed to work with and improve instruction for special populations;

''(F) assist in accessing and utilizing data, including labor market indicators, student achievement, and assessments;

''(G) enhance the leadership capacity of principals and administrators;

''(H) are integrated with professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965; and

''(I) include strategies to expose all career and technical education students to comprehensive information regarding career options that lead to high skill, high wage, or high demand occupations and nontraditional fields;

''(3) describes efforts to improve—

''(A) the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession; and

''(B) the transition to teaching from business and industry, including small business;

''(4) describes efforts to improve the capacity of programs and faculty at postsecondary institutions to effectively prepare career and technical education personnel, including, as appropriate, through electronically delivered distance education, and articulation agreements between 2-year technical programs and postsecondary education programs;

''(5) describes efforts to facilitate the transition of sub-baccalaureate career and technical education students into baccalaureate degree programs, including—

''(A) statewide articulation agreements between sub-baccalaureate career and technical education programs and baccalaureate degree programs;

''(B) postsecondary dual and concurrent enrollment programs;

''(C) academic and financial aid counseling; and

''(D) other initiatives to encourage the pursuit of a baccalaureate degree and to overcome barriers to participation in baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

''(6) describes how the eligible agency will actively involve parents, academic and career and technical education teachers, faculty, principals, and administrators, career guidance and academic counselors, local businesses (including small- and medium-sized businesses and business intermediaries), State workforce investment boards, local workforce investment boards, economic development entities, and labor organizations in the planning, development, implementation, and evaluation of such career and technical education programs;

''(7) describes how funds received by the eligible agency through the allotment made under section 111 will be allocated—

''(A) among secondary school career and technical education, or postsecondary and adult career and technical education, or both, including the rationale for such allocation; and

''(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

''(8) describes how the eligible agency will—

''(A) use funds to improve or develop new career and technical education courses in high skill, high wage, or high demand occupations—

''(i) at the secondary level that are aligned with challenging academic content standards and student academic achievement standards adopted by the State under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965; and

''(ii) at the postsecondary level that are challenging and aligned with business needs and industry standards, as appropriate;

''(B) improve the academic and technical skills of students participating in career and technical education programs, including strengthening the academic, and career and technical, components of career and technical education programs through the integration of academics with career and technical education to ensure learning in the core academic subjects and career and technical education subjects, and provide students with strong experience in, and understanding of, all aspects of an industry;

''(C) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students; and

''(D) encourage secondary school students who participate in such career and technical education programs to enroll in challenging courses in core academic subjects;

''(9) describes how the eligible agency will annually evaluate the effectiveness of such career and technical education programs, and describes, to the extent practicable, how the eligible agency is coordinating such programs to promote relevant lifelong learning and ensure nonduplication with other existing Federal programs;

''(10) describes the eligible agency's program strategies for special populations, including a description of how individuals who are members of the special populations—

''(A) will be provided with equal access to activities assisted under this title;

''(B) will not be discriminated against on the basis of their status as members of the special populations; and

''(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage, or high demand occupations;

''(11) how the eligible agency will collaborate in developing the State plan with—

''(A) the entity within the State with responsibility for elementary and secondary education;

''(B) the entity within the State with responsibility for public institutions engaged in postsecondary education;

''(C) State institutions such as State correctional institutions and institutions that serve individuals with disabilities; and

''(D) all other relevant State agencies with responsibility for career and technical education and training investment, and economic and workforce development;

''(12) describes what steps the eligible agency will take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

''(13) provides assurances that the eligible agency will comply with the requirements of this title and the provisions of the State plan, including the provision of a financial audit of funds received under this title which may be included as part of an audit of other Federal or State programs;

''(14) provides assurances that none of the funds expended under this title will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

''(15) describes how the eligible agency will measure and report data relating to students participating in and completing career and technical education within specific career clusters in

order to adequately measure the progress of the students, including special populations, at—

''(A) the secondary level, disaggregated by the categories described in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual; and

''(B) the postsecondary level, disaggregated by special populations, except that such disaggregation shall not be required in a case in which the number of individuals in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual;

''(16) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

''(17) describes how the eligible agency will provide local educational agencies, area career and technical education schools, and eligible institutions in the State with technical assistance;

''(18) describes how career and technical education relates to State and regional occupational opportunities;

''(19) describes the methods proposed for the joint planning and coordination of programs carried out under this title with other Federal education and workforce investment programs;

''(20) describes how funds will be used to promote preparation for high skill, high wage, or high demand occupations and nontraditional fields in emerging and established professions;

''(21) describes how funds will be used to serve individuals in State correctional institutions;

''(22) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this title and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

''(23) contains the description and information specified in sections 112(b)(8) and 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)(8) and 2841(c)) concerning the provision of services only for postsecondary students and school dropouts.'';

(5) by striking subsection (d) and inserting the following:

''(d) PLAN OPTIONS.—

''(1) SINGLE PLAN.—The eligible agency may fulfill the plan or application submission requirements of this section, section 118(b), and section 141(c) by submitting a single State plan. In such plan, the eligible agency may allow eligible recipients to fulfill the plan or application submission requirements of section 134 and subsections (a) and (b) of section 143 by submitting a single local plan.

''(2) PLAN SUBMITTED AS PART OF 501 PLAN.—The eligible agency may submit the plan required under this section as part of the plan submitted under section 501 of the Workforce Investment Act of 1998 (20 U.S.C. 9271), if the plan submitted pursuant to the requirement of this section meets the requirements of this Act.''; and

(6) by striking subsection (f).

SEC. 112. IMPROVEMENT PLANS.

Section 123 (20 U.S.C. 2343) is amended to read as follows:

''SEC. 123. IMPROVEMENT PLANS.

''(a) STATE PROGRAM IMPROVEMENT PLAN.—

''(1) PLAN.—If a State fails to meet the State adjusted levels of performance described in the report submitted under section 113(c), the eligible agency shall develop and implement a program improvement plan in consultation with the appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under paragraph (3).

''(2) TECHNICAL ASSISTANCE.—If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 122, or is not making substantial progress in meeting the purpose of this Act, based on the State's adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this Act.

''(3) FAILURE.—

''(A) IN GENERAL.—If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet more than 1 of the State adjusted levels of performance for the same performance indicator for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this title.

''(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may waive the sanction in subparagraph (A) due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in financial resources of the State.

''(4) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—

''(A) IN GENERAL.—The Secretary shall use funds withheld under paragraph (3) for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purposes of this Act.

''(B) REDISTRIBUTION.—If the Secretary cannot satisfactorily use funds withheld under paragraph (3), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (3) shall be redistributed to other eligible agencies in accordance with section 111.

''(b) LOCAL PROGRAM IMPROVEMENT.—

''(1) LOCAL EVALUATION.—Each eligible agency shall evaluate annually, using the local adjusted levels of performance described in section 113(b)(4), the career and technical education activities of each eligible recipient receiving funds under this title.

''(2) PLAN.—

''(A) IN GENERAL.—If, after reviewing the evaluation, the eligible agency determines that an eligible recipient is not making substantial progress in achieving the local adjusted levels of performance, the eligible agency shall—

''(i) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies, including the performance of special populations;

''(ii) enter into an improvement plan with an eligible recipient based on the results of the assessment, for the first program year succeeding the program year in which the eligible recipient failed to meet the local adjusted levels of performance, which plan shall demonstrate how the local performance deficiencies will be corrected and include instructional and other programmatic innovations of demonstrated effectiveness, and, where necessary, strategies for appropriate staffing and professional development; and

''(iii) conduct regular evaluations of the progress being made toward reaching the local adjusted levels of performance, as described in section 113(b)(4), and progress on implementing the improvement plan.

''(B) CONSULTATION.—The eligible agency shall conduct the activities described in subparagraph (A) in consultation with teachers, principals, administrators, faculty, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

''(3) TECHNICAL ASSISTANCE.—If the eligible agency determines that an eligible recipient is not properly implementing the eligible recipient's responsibilities under section 134, or is not making substantial progress in meeting the purpose of this Act, based on the local adjusted levels of performance, the eligible agency shall provide technical assistance to the eligible recipient to assist the eligible recipient in carrying out the improvement activities consistent with the requirements of this Act. An eligible recipient, in collaboration with the eligible agency, may request that the Secretary provide additional technical assistance.

''(4) FAILURE.—

''(A) IN GENERAL.—If an eligible recipient fails to meet the local adjusted levels of performance as described in section 113(b)(4) and has not implemented an improvement plan as described in paragraph (2), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (2), or has failed to meet more than 1 of the local adjusted levels of performance for the same performance indicator for 2 or more consecutive years, the eligible agency may, after notice and opportunity for a hearing, withhold from the eligible recipient all, or a portion of, the eligible recipient's allotment under this title.

''(B) WAIVER FOR EXCEPTIONAL CIRCUMSTANCES.—The eligible agency may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as organizational structure, or a natural disaster or a precipitous and unforeseen decline in financial resources of the eligible recipient.

''(5) FUNDS RESULTING FROM REDUCED ALLOTMENTS.—The eligible agency shall use funds withheld under paragraph (4) to provide (through alternative arrangements) services and activities to students within the area served by such recipient to meet the purpose of this Act.''.

SEC. 113. STATE LEADERSHIP ACTIVITIES.

Section 124 (20 U.S.C. 2344) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) in subsection (a), by striking ''112(a)(2)'' and inserting ''112(a)(2)(A)'';

(3) in subsection (b)—

(A) in paragraph (1), by striking ''further learning'' and all that follows through the semicolon and inserting ''further education, further training, or for high skill, high wage, or high demand occupations;'';

(B) in paragraph (2), by striking subparagraphs (A) through (C) and inserting the following:

''(A) training of career and technical education teachers, faculty, principals, career guidance and academic counselors, and administrators to use technology, including distance learning;

''(B) encouraging schools to work with technology industries to offer voluntary internships and mentoring programs; or

''(C) encouraging lifelong learning, including through partnerships that may involve institutions of higher education, organizations providing career and technical education, businesses, workforce investment entities, and communications entities;'';

(C) by striking paragraph (3) and inserting the following:

''(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors at the secondary and postsecondary levels, that support activities described in section 122 and—

''(A) provide in-service and pre-service training in career and technical education programs and techniques, effective teaching skills based on promising practices and, where available and appropriate, scientifically based research, and effective practices to improve parental and community involvement;

''(B) improve student achievement in order to meet the State adjusted levels of performance established under section 113;

''(C) support education programs for teachers and faculty of career and technical education in

public schools and other public school personnel who are involved in the direct delivery of educational services to career and technical education students to ensure that such personnel—

''(i) stay current with the needs, expectations, and methods of industry;

''(ii) can effectively develop challenging, integrated academic and career and technical education curriculum jointly with academic teachers, to the extent practicable; and

''(iii) develop a higher level of academic and industry knowledge and skills in career and technical education; and

''(D) are integrated with the teacher certification or licensing and professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 and title II of the Higher Education Act of 1965;'';

(D) in paragraph (4), by striking ''support for'' and inserting ''supporting'';

(E) in paragraph (5), by striking ''nontraditional training and employment'' and inserting ''nontraditional fields in emerging and established professions, and other activities that expose students, including special populations, to high skill, high wage occupations'';

(F) in paragraph (6)—

(i) by inserting ''intermediaries,'' after ''labor organizations,''; and

(ii) by inserting '', or complete career pathways, as described in section 122(c)(1)(A)'' after ''skills'';

(G) in paragraph (7), by striking ''and'' after the semicolon;

(H) in paragraph (8), by striking ''wage careers.'' and inserting ''wage, or high demand occupations; and''; and

(I) by adding at the end the following:

''(9) technical assistance for eligible recipients.'';

(4) by striking subsection (c) and inserting the following:

''(c) PERMISSIBLE USES OF FUNDS.—The leadership activities described in subsection (a) may include—

''(1) improvement of career guidance and academic counseling programs that assist students in making informed academic, and career and technical education, decisions, including encouraging secondary and postsecondary students to graduate with a diploma or degree, and expose students to high skill, high wage occupations and nontraditional fields in emerging and established professions;

''(2) establishment of agreements, including articulation agreements, between secondary and postsecondary career and technical education programs in order to provide postsecondary education and training opportunities for students participating in such career and technical education programs, such as tech-prep programs;

''(3) support for initiatives to facilitate the transition of sub-baccalaureate career and technical education students into baccalaureate degree programs, including—

''(A) statewide articulation agreements between sub-baccalaureate degree granting career and technical postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

''(B) postsecondary dual and concurrent enrollment programs;

''(C) academic and financial aid counseling; and

''(D) other initiatives—

''(i) to encourage the pursuit of a baccalaureate degree; and

''(ii) to overcome barriers to participation in baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

''(4) support for career and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

''(5) support for public charter schools operating secondary career and technical education programs;

''(6) support for career and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

''(7) support for family and consumer sciences programs;

''(8) support for partnerships between education and business or business intermediaries, including cooperative education and adjunct faculty arrangements at the secondary and postsecondary levels;

''(9) support to improve or develop new career and technical education courses and initiatives, including career clusters, career academies, and distance learning, that prepare individuals academically and technically for high skill, high wage, or high demand occupations;

''(10) awarding incentive grants to eligible recipients for exemplary performance in carrying out programs under this Act, which awards shall be based on local performance indicators, as described in section 113, in accordance with previously publicly disclosed priorities;

''(11) providing career and technical education programs for adults and school dropouts to complete their secondary school education, in coordination, to the extent practicable, with activities authorized under title II of the Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.);

''(12) providing assistance to individuals, who have participated in services and activities under this title, in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(13) developing valid and reliable assessments of technical skills that are integrated with industry certification assessments where available;

''(14) developing and enhancing data systems to collect and analyze data on secondary and postsecondary academic and employment outcomes;

''(15) improving—

''(A) the recruitment and retention of career and technical education teachers, faculty, principals, administrators, and career guidance and academic counselors, including individuals in groups underrepresented in the teaching profession; and

''(B) the transition to teaching from business and industry, including small business; and

''(16) adopting, calculating, or commissioning a self-sufficiency standard.''; and

(5) in subsection (d), by striking ''112(a)(2)'' and inserting ''112(a)(2)(A)''.

SEC. 114. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

Section 131 (20 U.S.C. 2351) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career'';

(2) by striking subsection (a);

(3) by redesignating subsections (b) through (i) as subsections (a) through (h), respectively;

(4) in subsection (a) (as redesignated by paragraph (3) of this section)—

(A) in the subsection heading, by striking ''SPECIAL DISTRIBUTION RULES FOR SUCCEEDING FISCAL YEARS'' and inserting ''DISTRIBUTION RULES''; and

(B) by striking ''for fiscal year 2000 and succeeding fiscal years'';

(5) in subsection (b) (as redesignated by paragraph (3) of this section)—

(A) by striking ''subsection (b)'' and inserting ''subsection (a)''; and

(B) in paragraph (1), by striking ''9902(2))'' and inserting ''9902(2)))'';

(6) in subsection (e) (as redesignated by paragraph (3) of this section), in the subsection heading, by striking ''VOCATIONAL'' and inserting ''CAREER''; and

(7) in subsection (g) (as redesignated by paragraph (3) of this section), by striking ''subsections (a), (b), (c), and (d)'' and inserting ''subsections (a), (b), and (c)''.

SEC. 115. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.

Section 132 (20 U.S.C. 2352) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 132. DISTRIBUTION OF FUNDS FOR POSTSECONDARY CAREER AND TECHNICAL EDUCATION PROGRAMS.'';

and

(2) in subsection (a)—

(A) in paragraph (1), by inserting ''for career and technical education programs leading to a technical skill proficiency, an industry-recognized credential, a certificate, or an associate's degree'' before the period; and

(B) in paragraph (2), by inserting ''leading to a technical skill proficiency, an industry-recognized credential, a certificate, or an associate's degree and'' after ''enrolled in programs''.

SEC. 116. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.

Section 133 (20 U.S.C. 2353) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 133. SPECIAL RULES FOR CAREER AND TECHNICAL EDUCATION.'';

and

(2) by striking ''vocational'' each place such term appears and inserting ''career''.

SEC. 117. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.

Section 134 (20 U.S.C. 2354) is amended—

(1) by striking the section heading and inserting the following:

''SEC. 134. LOCAL PLAN FOR CAREER AND TECHNICAL EDUCATION PROGRAMS.'';

(2) in subsection (a), by inserting ''and workforce investment'' after ''such other educational''; and

(3) in subsection (b), by striking paragraphs (1) through (10) and inserting the following:

''(1) describe how the career and technical education programs required under section 135(b) will be carried out with funds received under this title;

''(2) describe how the career and technical education activities will be carried out with respect to meeting State and local adjusted levels of performance established under section 113;

''(3) describe how the eligible recipient will—

''(A) offer the appropriate courses of not less than 1 of the career pathways described in section 122(c)(1)(A);

''(B) improve the academic and technical skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of challenging academics with career and technical education programs through a coherent sequence of courses to ensure learning in the core academic subjects, and career and technical education subjects;

''(C) provide students with strong experience in and understanding of all aspects of an industry; and

''(D) ensure that students who participate in such career and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

''(4) describe how comprehensive professional development will be provided that is consistent with section 122;

''(5) describe how parents, students, academic and career and technical education teachers, faculty, principals, administrators, career guidance and academic counselors, representatives of tech-prep consortia (if applicable), representatives of the local workforce investment board (if applicable), representatives of the local economic development entity (if applicable), representatives of business (including small business) and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of career and technical education programs assisted

under this title, and how such individuals and entities are effectively informed about, and assisted in, understanding, the requirements of this title, including career pathways;

''(6) provide assurances that the eligible recipient will provide a career and technical education program that is of such size, scope, and quality to bring about improvement in the quality of career and technical education programs;

''(7) describe the process that will be used to evaluate and continuously improve the performance of the eligible recipient;

''(8) describe how the eligible recipient—

''(A) will review career and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

''(B) will provide programs that are designed to enable the special populations to meet the local adjusted levels of performance and prepare for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency;

''(9) describe how individuals who are members of special populations will not be discriminated against on the basis of their status as members of the special populations;

''(10) describe how funds will be used to promote preparation for nontraditional fields;

''(11) describe how career guidance and academic counseling will be provided to all career and technical education students, including linkages to the information and services available through the one-stop delivery system established under section 121 of the Workforce Investment Act of 1998 (29 U.S.C. 2841), as appropriate; and

''(12) describe efforts to improve the recruitment and retention of career and technical education teachers, faculty, counselors, principals, and administrators, including individuals in groups underrepresented in the teaching profession, and the transition to teaching from business and industry.''.

SEC. 118. LOCAL USES OF FUNDS.

Section 135 (20 U.S.C. 2355) is amended—

(1) in subsection (a), by striking ''vocational'' and inserting ''career'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''vocational'' and inserting ''career''; and

(B) by striking paragraphs (1) through (8) and inserting the following:

''(1) strengthen the academic and career and technical education skills of students participating in career and technical education programs by strengthening the academic and career and technical education components of such programs through the integration of academics with career and technical education programs through a coherent sequence of courses, such as career pathways described in section 122(c)(1)(A), to ensure learning in the core academic subjects and career and technical education subjects;

''(2) link secondary career and technical education and postsecondary career and technical education, including by—

''(A) offering the relevant elements of not less than 1 career pathway described in section 122(c)(1)(A);

''(B) developing and supporting articulation agreements between secondary and postsecondary institutions; or

''(C) supporting tech-prep programs and consortia;

''(3) provide students with strong experience in and understanding of all aspects of an industry;

''(4) develop, improve, or expand the use of technology in career and technical education, which may include—

''(A) training of career and technical education teachers, faculty, principals, and administrators to use technology, including distance learning; or

''(B) encouraging schools to collaborate with technology industries to offer voluntary internships and mentoring programs;

''(5) provide professional development programs that are consistent with section 122 to secondary and postsecondary teachers, faculty, principals, administrators, and career guidance and academic counselors who are involved in integrated career and technical education programs, including—

''(A) in-service and pre-service training—

''(i) in career and technical education programs and techniques;

''(ii) in effective integration of challenging academic and career and technical education jointly with academic teachers, to the extent practicable;

''(iii) in effective teaching skills based on research that includes promising practices; and

''(iv) in effective practices to improve parental and community involvement;

''(B) support of education programs that provide information on all aspects of an industry;

''(C) internship programs that provide relevant business experience; and

''(D) programs dedicated to the effective use of instructional technology;

''(6) develop and implement evaluations of the career and technical education programs carried out with funds under this title, including an assessment of how the needs of special populations are being met;

''(7) initiate, improve, expand, and modernize quality career and technical education programs, including relevant technology;

''(8) provide services and activities that are of sufficient size, scope, and quality to be effective; and

''(9) provide activities to prepare special populations, including single parents and displaced homemakers (if enrolled in the program), for high skill, high wage, or high demand occupations, including those that will lead to self-sufficiency.''; and

(3) in subsection (c)—

(A) in paragraph (1), by striking ''vocational'' and inserting ''career''; and

(B) by striking paragraphs (2) through (15) and inserting the following:

''(2) to provide career guidance and academic counseling that is based on current labor market indicators, as provided pursuant to section 118, for students participating in career and technical education programs that—

''(A) improves graduation rates and provides information on postsecondary and career options, including baccalaureate degree programs, for secondary students, which activities may include the use of graduation and career plans; and

''(B) provides assistance for postsecondary students, including for adult students who are changing careers or updating skills;

''(3) for partnerships between or among the eligible recipient and a business (including a small business or business intermediary), a local workforce investment board, or a local economic development entity, including for—

''(A) work-related experience for students, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to career and technical education programs;

''(B) adjunct faculty arrangements at the secondary and postsecondary levels; and

''(C) industry experience for teachers and faculty;

''(4) to provide programs for special populations;

''(5) to assist career and technical student organizations;

''(6) for mentoring and support services;

''(7) for leasing, purchasing, upgrading, or adapting instructional equipment, including support for library resources, such as business journals, publications, and other related resources designed to strengthen and support academic and technical skill achievement;

''(8) for teacher preparation programs that address the integration of academic and career and technical education and that assist individuals who are interested in becoming career and technical education teachers and faculty, including individuals with experience in business and industry;

''(9) to develop and expand postsecondary program offerings at times and in formats that are convenient and accessible for working students, including through the use of distance education;

''(10) to develop initiatives that facilitate the transition of sub-baccalaureate career and technical education students into baccalaureate degree programs, including—

''(A) articulation agreements between sub-baccalaureate degree granting career and technical education postsecondary educational institutions and baccalaureate degree granting postsecondary educational institutions;

''(B) postsecondary dual and concurrent enrollment programs;

''(C) academic and financial aid counseling for sub-baccalaureate career and technical education students that inform the students of the opportunities for pursuing a baccalaureate degree and advise the students on how to meet any transfer requirements; and

''(D) other initiatives—

''(i) to encourage the pursuit of a baccalaureate degree; and

''(ii) to overcome barriers to enrollment in and completion of baccalaureate degree programs, including geographic and other barriers affecting rural students and special populations;

''(11) for improving or developing new career and technical education courses, including entrepreneurship and development of new career pathways;

''(12) to develop and support small, personalized career-themed learning communities;

''(13) to provide support for family and consumer sciences programs;

''(14) to provide career and technical education programs for adults and school dropouts to complete their secondary school education or upgrade their technical skills;

''(15) to provide assistance to individuals who have participated in services and activities under this title in finding an appropriate job and continuing their education or training through collaboration with the workforce investment system established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(16) to support activities in nontraditional fields, such as mentoring and outreach; and

''(17) to support other career and technical education activities that are consistent with the purpose of this Act.''.

SEC. 119. TECH-PREP EDUCATION.

(a) REDESIGNATION.—Title II (20 U.S.C. 2371 et seq.) is amended—

(1) by striking the title heading and inserting the following:

''PART D—TECH-PREP EDUCATION'';

(2) by striking sections 201, 202, 206, and 207; and

(3) by redesignating sections 203, 204, 205, and 208, as sections 141, 142, 143, and 144, respectively.

(b) STATE ALLOTMENT AND APPLICATION.—Section 141 (as redesignated by subsection (a) of this section) is amended—

(1) in subsection (a), by striking ''section 206'' and inserting ''section 144''; and

(2) by striking subsection (c) and inserting the following:

''(c) STATE APPLICATION.—Each eligible agency desiring assistance under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Such application shall describe how activities under this part will be coordinated, to the extent practicable, with activities described in section 122.''.

(c) TECH-PREP EDUCATION.—Section 142 (as redesignated by subsection (a) of this section) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''section 203'' and inserting ''section 141'';

(ii) by striking ''title'' and inserting ''part'';

(iii) by striking ''vocational'' both places the term appears and inserting ''career''; and

(iv) in subparagraph (A), by inserting '', educational service agency,'' after ''intermediate educational agency''; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''and'';

(ii) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(C) employers, including small businesses, or business intermediaries; and

''(D) labor organizations.'';

(2) in subsection (c)—

(A) by striking paragraph (2) and inserting the following:

''(2) consist of not less than 2 years of secondary school with a common core of technical skills and core academic subjects preceding graduation and 2 years or more of higher education, or an apprenticeship program of not less than 2 years following secondary instruction, designed to lead to technical skill proficiency, a credential, a certificate, or a degree, in a specific career field;'';

(B) in paragraph (3)(B), by inserting ''including through the use of articulation agreements, and'' after ''career fields,'';

(C) by striking paragraph (4) and inserting the following:

''(4) include in-service professional development for teachers, faculty, principals, and administrators that—

''(A) supports effective implementation of tech-prep programs;

''(B) supports joint training in the tech-prep consortium;

''(C) supports the needs, expectations, and methods of business and all aspects of an industry;

''(D) supports the use of contextual and applied curricula, instruction, and assessment;

''(E) supports the use and application of technology; and

''(F) assists in accessing and utilizing data, including labor market indicators, achievement, and assessments;'';

(D) in paragraph (5)—

(i) by striking ''training'' and inserting ''professional development'';

(ii) in subparagraph (B), by inserting '', which may include through the use of graduation and career plans'' after ''programs'';

(iii) in subparagraph (D), by striking ''and'';

(iv) in subparagraph (E), by inserting ''and'' after the semicolon; and

(v) by adding at the end the following:

''(F) provide comprehensive career guidance and academic counseling to participating students, including special populations;'';

(E) in paragraph (6)—

(i) by inserting ''(including pre-apprenticeship programs)'' after ''programs''; and

(ii) by striking ''and'' after the semicolon;

(F) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(G) by adding at the end the following:

''(8) coordinate with activities conducted under this title.''; and

(3) in subsection (d)—

(A) in paragraph (2), by striking ''and'' after the semicolon;

(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(4) improve career guidance and academic counseling for participating students through the development and implementation of graduation and career plans; and

''(5) develop curriculum that supports effective transitions between secondary and postsecondary career and technical education programs.''.

(d) CONSORTIUM APPLICATIONS.—Section 143 (as redesignated by subsection (a) of this section) is amended—

(1) in subsection (a), by striking ''title'' and inserting ''part'';

(2) in subsection (b)—

(A) by striking ''5'' and inserting ''6''; and

(B) by striking ''title'' and inserting ''part'';

(3) in subsection (d)—

(A) in paragraph (1), by inserting ''or advanced'' after ''baccalaureate'';

(B) by striking paragraph (4) and inserting the following:

''(4) provide education and training in areas or skills, including emerging technology, in which there are significant workforce shortages based on the data provided by the entity in the State under section 118;'';

(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(6) demonstrate success in, or provide assurances of, coordination and integration with eligible recipients described in part C.''; and

(4) in subsection (e), by striking ''title'' and inserting ''part''.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 144 (as redesignated by subsection (a) of this section) is amended—

(1) by striking ''title (other than section 207)'' and inserting ''part''; and

(2) by striking ''1999 and each of the 4'' and inserting ''2006 and each of the 5''.

TITLE II—GENERAL PROVISIONS

SEC. 201. REDESIGNATION OF TITLE.

(a) FEDERAL ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 311 through 318 as sections 211 through 218, respectively.

(b) STATE ADMINISTRATIVE PROVISIONS.—Title III (20 U.S.C. 2391 et seq.) is amended by redesignating sections 321 through 325 as sections 221 through 225, respectively.

(c) TITLE HEADING.—The title heading of title III (20 U.S.C. 2391 et seq.) is amended to read as follows:

''TITLE II—GENERAL PROVISIONS''.

SEC. 202. FISCAL REQUIREMENTS.

Section 211 (as redesignated by section 201 of this Act) is amended—

(1) by striking ''vocational'' each place the term appears and inserting ''career''; and

(2) in subsection (b)—

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

''(1) DETERMINATION.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no payments shall be made under this Act for any fiscal year to a State for activities authorized under title I unless the Secretary determines that the average fiscal effort per student or the aggregate expenditures of such State for career and technical education programs for the 3 fiscal years preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for career and technical education programs, for the 3 fiscal years preceding the fiscal year for which the determination is made.

''(B) COMPUTATION.—In computing the average fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

''(C) DECREASE IN FEDERAL SUPPORT.—If the amount made available for career and technical education programs under this Act for a fiscal year is less than the amount made available for career and technical education programs under this Act for the preceding fiscal year, then the average fiscal effort per student or the aggregate expenditures of a State required by subparagraph (A) for the 3 preceding fiscal years shall be decreased by the same percentage as the percentage decrease in the amount so made available.''; and

(B) in paragraph (2), by striking ''fiscal effort'' both places the term appears and inserting ''average fiscal effort''.

SEC. 203. VOLUNTARY SELECTION AND PARTICIPATION.

Section 214 (as redesignated by section 201 of this Act) is amended by striking ''vocational'' both places the term appears and inserting ''career''.

SEC. 204. LIMITATION FOR CERTAIN STUDENTS.

Section 215 (as redesignated by section 201 of this Act) is amended by striking ''vocational'' and inserting ''career''.

SEC. 205. AUTHORIZATION OF SECRETARY; PARTICIPATION OF PRIVATE SCHOOL PERSONNEL.

Part A of title II (as redesignated by section 201 of this Act) is amended—

(1) by striking section 217;

(2) by redesignating section 218 as section 217; and

(3) in section 217 (as redesignated by paragraph (2) of this section)—

(A) by inserting ''principals,'' after ''for vocational and technical education teachers,'';

(B) by inserting ''principals,'' after ''of vocational and technical education teachers,''; and

(C) by striking ''vocational'' each place the term appears and inserting ''career''.

SEC. 206. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

Section 225(c) (as redesignated by section 201 of this Act) is amended—

(1) in the subsection heading, by striking ''VOCATIONAL'' and inserting ''CAREER''; and

(2) by striking ''vocational'' both places the term appears and inserting ''career''.

SEC. 207. TABLE OF CONTENTS.

Section 1(b) (20 U.S.C. 2301 note) is amended to read as follows:

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

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senate for considering this bill at this moment. It is a bill that has wide bipartisan support. I thank Senator KENNEDY and all of the members of the Health, Education, Labor, and Pensions Committee and all of the staff members who have worked on this bill. It has been a tremendous bipartisan effort to make sure that we will have as many people able to enter the workforce with good skills as possible and to make an improvement in the way high schools operate.

I thank a number of Senators for being cosponsors: Senators GREGG, ALEXANDER, DODD, JEFFORDS, MURRAY, HARKIN, MIKULSKI, CLINTON, REED, BINGAMAN, SESSIONS, BURNS, THOMAS, ISAKSON, and ROBERTS. Of course, those are in addition to the two main sponsors, Senator KENNEDY and myself.

We are pleased to have a bipartisan effort, one that strengthens and improves the Federal program designed to support career and technical education. I am pleased the Senate is able to consider this legislation at this time.

This legislation was reported favorably by the Health, Education, Labor, and Pensions Committee yesterday morning and it was by unanimous vote. I am encouraged by the wide range of support in the committee and outside, and there are good reasons for that. The program adds emphasis to academic instruction. It provides career training. It is already at work in all of the schools and is making some great inroads. And those will be much better with these changes.

I have to mention a couple of examples of the ways this is working in Wyoming. In Casper, WY right now, the community college and the school district are working on plans to create a hybrid career and technical education center which will help students earn credit toward a college degree, learn relevant job skills, and meet State academic standards all through a single sequence of courses. The legislation encourages more schools to begin innovative programs such as the one developed in Casper.

The second reason the legislation is important is because it will help ensure that we are preparing students for tomorrow's workforce. We are in the midst of a skills revolution. Students going to school probably will not go to work for a single company and work there 30 years and then retire. The statistics show that they will probably have 14 different careers—not 14 different jobs, 14 different careers. Many of them won't even have been invented now. It is very important that we have a flexible learning environment that will allow them to cope with these changes.

I also wanted to mention a program in Rock Springs, WY. Ted Schroeder, a career and technical education teacher, has demonstrated firsthand the success that comes from connecting career and technical education to the needs of business. In response to complaints heard from local businesses about the need for students with stronger accounting skills, Ted went looking for a program that could help train his students with the skills requested by the businesses. I am very pleased that it was accounting, too. We could use a couple more accountants in the Senate.

Working with local teachers and school leaders, Ted began a computer-based accounting program at the high school in Rock Springs and has been enrolling students successfully for the past few years. Some of the students are now moving on to community college. Some have moved into the workforce where they are successfully meeting a need for the business community and for their own lives.

A final reason, too, for this being important legislation is that it provides a foundation for the redesign of Federal education policy.

I have a letter from the Secretary of Education that asks some questions that we have answers for based on the work we did putting this bill together. I ask unanimous consent that her letter be printed in the RECORD.

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

THE SECRETARY OF EDUCATION,
Washington, DC, March 9, 2005.

Hon. MICHAEL B. ENZI,
Chairman, Committee on Health, Education, Labor, and Pensions, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my strong opposition to S. 250, the Carl D. Perkins Career and Technical Education Improvement Act of 2005, which would reauthorize the Carl D. Perkins Vocational and Technical Education Act of 1998 (Perkins Act). The Perkins Act is currently the primary Federal funding source for educational programs in high schools. Unfortunately, in its current form, the bill does little to address the urgent challenge that has been highlighted by both President Bush and the nation's governors to reform our Nation's high schools.

Given the changing dynamic of the workforce, all students, including those in vocational and technical education programs, need to complete high school with a high level of academic skills and be prepared to participate in the globally competitive workforce. Unfortunately, recent results from the National Assessment of Educational Progress (NAEP) demonstrate that, while achievement for our Nation's fourth- and eighth-graders is on the rise, scores for twelfth-graders have declined in both reading and mathematics. Currently just 68 out of every 100 ninth-graders will graduate from high school on time, and two-thirds of students leave high school without the skills to succeed in college. Clearly, our high schools are not getting the job done for America's students. With governors and educators just beginning to consider various reform options, the President's High School Initiative is essential to foster nationwide efforts to transform our high schools.

As you are aware, the President's fiscal year 2006 budget request proposed to eliminate funding for the Vocational Education State Grants and National programs, authorized by the Perkins Act. Career and technical education programs, at their best, can provide students with both strong academic and advanced technical skills, in a ''real-world'' context that can hold up against the best schools and colleges, both in the United States and internationally. However, under the Program Assessment Rating Tool (PART) process, the Vocational Education State Grants program, by far the largest component of the Perkins Act, was rated ineffective because it has produced little evidence of improved outcomes for students despite decades of Federal investment. On the most recent NAEP assessments, less than 10 percent of vocational students scored at or above proficiency in mathematics (2000) and only 29 percent scored at or above proficiency in reading (1998). In its final report to Congress in June 2004, the National Assessment of Vocational Education (NAVE) found no evidence that high school vocational courses themselves contribute to academic achievement or college enrollment. Also, the NAVE did find that high school students, on average, earn more credits in vocational education (4.2) than in math (3.5) or science (3.2). In addition, the most telling data come from employers—according to a February 2005 Achieve, Inc. survey, employers estimate that 39 percent of high school graduates who have no further education are not prepared for their current job and 45 percent are unprepared for advancement.

As a result of these findings, and the widely recognized need for a more comprehensive approach to the improvement of high school education, the President instead proposes that these funds be redirected to support a new High School Initiative to improve achievement and narrow achievement gaps at the high school level. This proposed initiative will give educators greater flexibility to design and implement programs that best meet the needs of all students, including career and technical education students. The fiscal year 2006 budget also includes funds to improve access to community colleges and to expand the training programs administered by those institutions.

Enactment of S. 250 in its current form would continue to reauthorize, with little change, the very programs that have been ineffective in improving the quality of education of our Nation's career and technical education students. It would be irresponsible to continue an investment in a program that does not improve the education of students at the high school level.

The Perkins Act requires fundamental changes to its mission and focus. While the Administration still supports a redirection of Perkins funds, any extension of the Perkins Act should, at the very least:

Promote a stronger academic foundation by ensuring that all career and technical education (CTE) students receiving services under the Perkins Act have access to a rigorous academic curriculum to prepare them to enter college or the workforce. CTE students should have a smooth transition to a postsecondary education program leading to a technical certificate, an associate or baccalaureate degree, an apprenticeship, or a job. This change will support the findings of the American Diploma Project, which concluded, ''successful preparation for both postsecondary education and employment requires learning the same rigorous English and mathematics content and skills. No longer do students planning to go to work after high school need a different and less rigorous curriculum than those planning to go to college.''

Require that, by school year 2009–2010, students participating in Perkins Act programs be tested annually in three high school grades in reading/language arts and math in order to assess their progress in meeting State standards. The President's FY 2006 budget proposed funding for high school assessments so that principals and teachers have new tools and data to meet the needs of individual students and strengthen high school accountability.

Give the Secretary adequate authority to establish common measures to assess program performance and to ensure that data provided by the States are valid and reliable. In the bill's current form, State performance measures would not have to be valid or reliable indicators of what they purport to measure. It is thus inequitable to sanction eligible recipients, as the bill allows, for failure to meet performance levels if the performance measures themselves do not meet basic standards of validity and reliability.

Provide the Secretary authority to negotiate specific performance measures and targets, in percentage form, with each State. Currently, the bill would permit States to continue using previously developed performance measures and would limit the role of the Secretary to reaching agreement on the percentage or numbers of students who attain the State-adjusted levels of performance.

The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

MARGARET SPELLINGS.

This legislation reflects a bipartisan effort to strengthen and improve Federal programs designed to support career and technical education. I am very pleased to have introduced this bill with my friend and colleague from Massachusetts, Senator KENNEDY.

This legislation was reported favorably by the Senate Health, Education, Labor and Pensions Committee yesterday morning by a unanimous vote. I am encouraged by the wide range of support for this legislation as we move forward in the legislative process.

This legislation is important for three reasons. The 1st reason is the added emphasis on academic instruction. I commend the President and the Governors for raising the issue of high school reform, and I believe this legislation is an important part of that process. Improving and strengthening the academic focus of the Perkins Act is part of a much larger effort to ensure that today's students will be ready for tomorrow's reality, whether it is in college or the workplace.

In 1998, when Congress last reauthorized the Perkins program, additional emphasis on student academic achievement was incorporated into the bill. That emphasis was critical, and the results have been demonstrated in the program. More Perkins students are performing better on national reading and math assessments than ever before.

According to a recent study of Arizona career and technical education students, students in career and technical training courses were more likely to meet State math proficiency levels than students not enrolled in technical training courses. That's good, because today's jobs are requiring stronger academic preparation than ever before, especially in math and science.

We are also facing a significant problem in terms of today's students completing high school. Many college instructors and employers agree that public high school graduates are not prepared for college-level classes or to advance beyond entry level jobs.

Only 68 percent of the students entering the ninth grade 4 years ago are expected to graduate this year; and, that for minority students this number hovers around 50 percent. In addition, we continue to experience an overall drop out rate of 11 percent per year.

Another recent study, conducted by the Organization for Economic Cooperation and Development, shows that American students are lagging behind the international average in math proficiency. Another study by this same group has pointed out that American high school students are less likely to complete high school than their peers in other countries. In that study, the United States ranked sixteenth out of twenty nations studied in terms of graduation rates.

The legislation we are now considering emphasizes high school completion by making academic courses more relevant. According to the National Assessment of Vocational Education, released last year, career and technical education students are three times more likely to apply academic skills to job related tasks than students in academic courses.

Making learning relevant is one of the best ways to ensure students stay interested in their coursework, while also preparing them for college or the workforce.

The National Governors Association recently held an education summit here in Washington, DC, to discuss the issue of high school reform and how we can do a better job of graduating students on time with the knowledge and skills they need to succeed in life. According to their report, high school is now the front line in America's battle to remain competitive on the increasingly competitive international economic stage.

In the bill we are now considering, we have made academic achievement one of several core indicators of performance for programs receiving funds from this act. As states are elevating their expectations for students under No Child Left Behind, we anticipate that career and technical education students will benefit from those same high expectations. We believe that career and technical education programs should be able to take credit for helping students improve their academic achievement in core subject areas, like reading, math, and science.

This legislation also emphasizes the connection to postsecondary education. Many of today's high schools students are entering college behind the curve before they even start. Twenty-eight percent of college students are taking some remedial education courses before graduating. We need to make sure that more high school students are receiving the instruction they need before they leave high school in order to be successful in college.

The impact of the need for remedial academic instruction has dramatic consequences. As many as three in four students requiring remedial reading instruction will not complete a postsecondary degree program. Over 60 percent of students requiring remedial math education will not complete a postsecondary degree.

The Perkins program can help address the ''wasted senior year'' by helping to improve student academic achievement. It does that by linking learning to relevant applications and tasks. Students that are excited about learning will always do better, and a great way to get students excited about learning is to show them how they will use some the skills they're learning.

For many students, understanding how they will use the skills they learn can mean the difference between completing a high school degree and dropping out. For others, it means greater investment in their studies than they might otherwise have.

The Perkins program can support students in high school by providing strong academic courses linked through a career pathway that will help reduce the need for remedial education.

The Perkins program is in a unique position to help prevent the need for additional remedial education at the postsecondary level. Because the program provides funds to both secondary and postsecondary schools, programs are more coordinated, and students have broader exposure to postsecondary education before leaving high school. A number of programs enabling students to earn concurrent credits for high school and college are springing up within the Perkins program, helping students prepare for college and reduce their time to graduation from a postsecondary degree certificate or degree program.

In Casper, WY, right now, the community college and the school district are working on plans to create a hybrid career and technical education center, which will help students earn credit toward a college degree, learn relevant

job skills, and meet state academic standards, all through a single sequence of courses. This legislation encourages more schools to begin innovative programs like the one being developed in Casper.

The second reason this legislation is important is because it will help ensure we are preparing students for tomorrow's workforce. We are in the midst of a skills revolution. It is estimated that today's students leaving high school or college will have fourteen different careers in their lifetimes. It is also estimated that the top 10 jobs ten years from now haven't been invented yet. The question that faces all of us, put simply, is ''got skills?''

We must equip our workers with the skills the technology-driven economy demands. We need to prepare our students for tomorrow's economy in order to remain competitive in the global marketplace. China is graduating four times as many engineers as the United States, and there is no way for us to catch up in terms of raw numbers of graduates. The only way we can compete is to graduate students with the highest quality academic and technical skills. If we are going to support a strong economy, we need to ensure our students have the high quality skills they need to succeed in postsecondary education and the workforce.

Earlier this week on the Senate floor we discussed the need for skills training and its impact on wages. I made a speech to the effect that the problem we are facing is one of minimum skills—not minimum wages. The effect may be low wages, but the cause is low skills. We need to address those workers who have few, if any, of the skills they need to compete for a better job and command higher wages. We need to start thinking in terms of skills, the kinds of skills that will help students support themselves and their families in the future.

Research suggests that high school dropouts have an unemployment rate two times higher than high school graduates, and three times higher than college graduates. Over time, the earning differential between high school and college graduates has increased as well. In 1980, college graduates earned fifty percent more during their lifetime than high school graduates. Today this differential has increased to 100 percent and continues to expand.

The Perkins program helps students learn and develop the skills they need to compete in the workforce. In the bill before us, we've emphasized the need to prepare students for placement in high skill, high wage, or high demand occupations. These are the types of jobs that will ensure a stronger future for students and will help them become self-sufficient.

Eighty percent of the jobs created over the next ten years will require some postsecondary education. However, the majority of those jobs will require less than a four year degree. This is a critical issue, and we need to start now to meet the needs of the future workforce. I believe that a stronger, more effective Perkins program is an important way to address this issue.

As you can see on this chart, by 2010 we face a projected skilled worker shortage of 5.3 million workers. That's 5.3 million American jobs that can't be filled because our workers don't have the right skills. That is why career and technical education funds are so critical to the supply of skilled labor in this country. These are precisely the types of careers for which the Perkins program is preparing students. Career and technical programs in this country are preparing engineers, health care professionals, information technology workers, trade, industry, and business leaders, and a host of other careers.

One of the most critical improvements we've made to the Perkins program in this bill is to strengthen the connection of career and technical education programs to the needs of businesses. If we are going to help fill the growing need for skilled workers, we need to ensure Perkins programs are coordinating their instruction with current practices in industry and the needs of the local workforce.

In Rock Springs, WY, Ted Schroeder, a career and technical education teacher, has demonstrated firsthand the success that comes from connecting career and technical education to the needs of business. In response to complaints heard from local businesses about the need for students with stronger accounting skills, Ted went looking for a program that could help train his students with the skills requested by the businesses.

Working with local school leaders, Ted began a computer-based accounting program at the high school in Rock Springs and has been enrolling students successfully for the past few years. Some of those students are now moving on to community college or the workforce.

That's the type of relevant instruction that we need to encourage and that we are encouraging through this bill. I would expect that the students performing well in that accounting class are also performing well on state math assessments in Wyoming.

The final reason that this legislation is important is because it provides a foundation for the redesign of federal education policy. We need to structure Federal education policies that provide students and adult learners have access to lifelong education opportunities. In this 21st century economy, learning never ends, and school is never out.

The Perkins Act is one part of a ''three-legged stool'' of federal education and training programs, all of which we will be considering this year. The other two key pieces of this approach are the Workforce Investment Act, and the Higher Education Act.

If we are going to stay competitive, Federal education programs need to help support seamless transitions from education to the workforce, throughout life, from preschool through postsecondary education and beyond. The bill we are considering takes the first step in that direction by emphasizing the connection between academic and technical education and the workforce and postsecondary education. The Workforce Investment Act and the Higher Education Act will be the next critical steps in ensuring that American students are prepared for today and tomorrow's careers, many which haven't been invented yet.

Today's students are more and more likely to return to school throughout their lives for additional training. Some estimates suggest that as many as 75 percent of today's workers will need additional training just to stay current with their jobs. The modern college student reflects this trend perfectly. Today's average college student is likely to be older than 24, independent, and more likely to be female.

That snapshot reflects the reality that today's college students are there for training and technical skills acquisition more than anything else. Postsecondary education is one of the fastest means to advancement in today's economy. With a postsecondary education, workers are more likely to keep their jobs and take advantage of opportunities to grow and advance in the workforce, or transition to another occupation as the workforce changes.

Federal policy needs to reflect the 21st century reality that we are in the midst of a jobs revolution. We are going to experience dramatic changes in the workforce over the next ten to fifteen years, and we need to start now if we are going to adapt Federal education and training policy to meet the coming crisis of too few workers with too few skills.

I am grateful for the work of my colleagues and the distinguished ranking member of the committee on this legislation. We were able to move this bill quickly through committee, and now to the floor, because we were able to work in a bipartisan manner to reauthorize a program that the members of the Health, Education, Labor and Pensions Committee feel is an important part of the federal education and training system.

I hope that we will be able to proceed quickly to conference with the House. I know they marked up their legislation yesterday as well, and I expect they will also proceed quickly to floor consideration.

We look forward to working with the House to conference this bill and send it to President for signature this spring.

I am hopeful we will be able to complete action on this bill quickly and send it to the President for signature, so that we can begin work on the Workforce Investment Act and the Higher Education Act, the next critical pieces of a comprehensive approach to federal education and training initiatives—and lifelong educational opportunities.

Mr. President, S. 250 makes significant changes in the Perkins program. It does so to further emphasize a stronger academic focus in career and technical education so students are ready for the workforce and for college. The bill requires better articulation between high school and college career and technical programs. It requires States to develop career pathways that incorporate challenging academic courses and requires that information about academic preparation for the workforce be provided for all students, not just career and technical education students.

The bill also links the accountability between the Perkins program to rigorous and challenging academic standards under the No Child Left Behind Act. The bill is consistent with the goals outlined by the American Diploma Project which suggests students need stronger academic preparation regardless of whether the next step is college or the workforce. Today's students need to be ready for the next step in life, whether it is the workforce or college. That is why the Senate bill emphasizes both academic and technical achievement that leads to postsecondary education or a high skill, high wage, or high demand occupation, perhaps all three incorporated in one.

The bill incorporates the assessments required under No Child Left Behind and maintains the same requirement for all high school students rather than applying an uneven standard for Perkins and non-Perkins students. The Perkins program is not a substitute for comprehensive high school reform because it doesn't reach all high school students. It is an important part of that effort, however.

The Senate bill provides much stronger accountability than even the No Child Left Behind Act. Not only does it require that students meet academic standards, but it also requires schools to report on students moving on to college, receiving postsecondary credit, earning an industry-recognized credential, certificate, or a degree. It even wants to know if they got a job.

The bill also emphasizes stronger ties between high schools and colleges so students can begin to prepare themselves for the next step in their education. It also strengthens connections between schools and employers so students who don't go to college will be ready for the workforce. The bill requires that information is provided to students so they know how their academic course work will prepare them for work and college in the future.

The bill also requires accountability systems to be based on either industry-recognized credentials or other standardized secondary and postsecondary performance indicators, such as completion of a postsecondary degree or certificate program. It requires participating schools to report on indicators that are nationally understood. In many instances we have followed the Department's request that indicators be made consistent between programs, which we have done.

The bill draws extensively from No Child Left Behind, the Workforce Investment Act, and the Adult and Basic Education Act, incorporating many common requirements into this bill. The Senate bill provides an opportunity for the Secretary to work with States to develop performance measures. The bill allows States to use percentages or numbers to determine performance standards. The performance indicators are negotiated at the State level with the Secretary, and the goal ought to be helping States improve their Perkins program by meeting performance indicators regardless of whether they are expressed in number or percentage forms.

We have covered a lot of ground in this bill, aspects that haven't been included before, aspects that will improve provisions, that which will help the students focus on getting jobs. We think this is a bill that America needs, and we want to get it to them quickly. We appreciate the efforts of the Senate to get it brought up quickly and to get it passed so we can get it into conference and get this great piece of legislation active this spring.

I would particularly like to thank staff of the Senate Committee on Health, Education, Labor and Pensions who have worked to successfully bring this bill forward. I want to thank Beth Buehlmann, Scott Fleming, and Courtney Brown from my own staff; Jane Oates, Carmel Martin, and Liz Maher from Senator KENNEDY's staff. I'd also like to thank the other staff members who worked diligently on this legislation.

I yield to my ranking member, Senator KENNEDY.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, first of all, I join all of our colleagues on this side of the aisle who have the good opportunity to work on the Health, Education, Labor, and Pensions Committee in commending our friend and chairman, Senator ENZI, for his good work in bringing this legislation out of our committee yesterday and being able to arrange for us to have a chance to consider it on the floor this afternoon.

This legislation is enormously important to more than 70,000 students in my State and to millions of students all across the country. To a great extent, we are here because of the chairman's determination and persistence in ensuring that our committee meets its responsibilities on this legislation, as he has on others as well.

I will just mention that we also passed out of committee the Child Care Development Block Grant Program, with which my friend and colleague, Senator DODD, has had so much to do. It will make a large difference in terms of child care for families. Also, there are some important protections, in terms of the FDA, on the whole issue of contact lenses. And then there is a very important piece of legislation dealing with the improvement of patient safety, to reduce the incidents of events that adversely affect patient safety. We are waiting to work out some minor details. That is an enormously important piece of legislation. This has been a very full agenda so far this year.

We have been on the floor over the last 6 or 7 days talking about a piece of legislation that has divided this institution. Today, we are strongly together on a matter that will make a great deal of difference to young people and old people alike.

Our chairman pointed out the importance of acquiring skills, retaining skills, and lifelong learning in the United States today. Especially in this age of globalization, we want every one of our citizens to have the learning and the skills essential to the continuing strength of our modern economy.

Investing in our education system, continuing education, continuing training, and the acquiring of skills is essential in terms of our national security as well. It is not always thought of in those terms, but it clearly is. This legislation, which has been upgraded in the course of this Congress, is essential for equipping millions of Americans with the skills they need to compete in the global economy.

It is a lifeline to many of those young people. With the changes we have made in this bill, and with a number of changes that have been made at the State level, we have the assurance that these young people are going to get a first-class education.

I ask my colleagues to look at this chart behind me. In my State of Massachusetts, we have some 78,000 students who are involved in vocational education. Years ago, vocational education simply meant an extra class in shop in many schools. That is not the case now. The kinds of skills these young people are getting are enormously sophisticated, complex, and incredibly important, as our whole economy has become that way. There are more than 74,000 students in career and technical education programs who passed what we call the MCAS test, our State assessment exam. We have over 74,000 career and technical education students who passed the test out of 78,376. That is 95 percent. That percentage is extraordinary.

The MCAS test is a difficult test. The extraordinary thing about Massachusetts—if I can take 10 more seconds on this—is that the State publishes the MCAS test, and makes public the items on the test each year. So every parent and school teacher, and people around the country, know the quality of the test itself and know the demands that this puts on young people. What these results demonstrate is that these young people are acquiring skills and also developing very, very important academic skills in their career and technical programs.

Now, look at this chart, which says, ''What does the Perkins program mean in Massachusetts?'' We have students in Brockton who received onsite clinical training in health care facilities. In New Bedford, a city that has suffered tremendously with the outsourcing of manufacturing jobs, the regional school has begun an engineering program. The program partners with 2- and 4-year colleges, Texas Instruments, and Bose. Students will be able to earn $22,000 directly after high school and far more when they go on to earn their college degree. All Massachusetts community colleges have instructional support staff and a major source of funding for adaptive equipment for students with disabilities who are enrolled in technical education programs.

Now, this chart shows the positive placement rates of five vocational schools in Massachusetts—all are over 90 percent. We have shown the academic rates and accomplishments of career and technical education students. The bottom line is, when we are looking for accountability and results, we should look at the placement rates for these young students. It is 98 percent at Assabet Valley Regional Vocational School in Marlborough. At Worcester Vocational High, it is 96 percent. At Northeast Metropolitan Vocational in Wakefield, it is 95 percent. At New Bedford Regional Technical, 90 to 95 percent of the graduates go on to the workforce or postsecondary education. This is true also at Upper Cape Cod Tech, at 90 percent.

I want to mention a couple of stories. I will mention one other very significant, impressive result of a technical school. At Shawsheen Technical High School, we have 600 eighth-grade students vying for 320 seats in the program. A third of the students are in special education. Yet, the school has a 100 percent pass rate on the Statewide student assessment exam. That is an extraordinary outcome.

These are outcomes we can see, and they make a difference for young students who need special education. At Shawsheen Tech, special education students have an outstanding rate of passing the Statewide student assessment exams. Learning academic skills in an applied context is responsible for this success. Ninety-seven percent of the graduates go on to immediate employment in their field or continue their education.

Let me mention a couple of other interesting facts about this extraordinary school. Shawsheen has developed an intensive Licensed Practical Nurses program for adults. Students serve in clinical rotations on alternate weekends at one of the great medical centers, the Leahy Clinic, which my family has benefitted from for three generations—it is a first-rate clinic in Massachusetts. These students are able to gain jobs in this very prestigious and important clinic. Fifty percent of the students enrolled in this program are minority students. Sixty percent are Pell recipients. The first 3 classes of 40 students each had a 90 percent retention rate and a 98 percent pass rate for the program completers, and their average starting salary is more than $23 an hour.

These are extraordinary outcomes. Let me mention one other example. Kerry is a student at Middlesex Community College in the dental hygiene program. She is the mother of two preschool-age children and struggled at several different colleges because of a learning disability. At Middlesex she receives support and accommodation from disability support services and works closely with a disability support specialist. That specialist's salary is paid for with Perkins funding. There we have a tie of special needs students into these well-organized, structured programs, and the outcome has been a very important success. Kerry's success in school is due to the fact that she receives Perkins funding.

The story really is in the outcome. I see my friend from Rhode Island. He knows and values the importance of vocational training because of the excellent programs in the State of Rhode Island. In our region of the country, training programs have made an enormous contribution to the industrial and commercial success of so many of our industries. This program has played a very important role. It has been upgraded and improved from an academic point of view, from a training point of view, from the expectations of results, of working with businesses to give new emphasis to the kinds of specialities which are in short supply, and we have benefitted from broad participation.

Chairman ENZI pointed out the very good work of the various communities that have given valuable help and assistance to us and the incredible staff of all the Members on both sides of the aisle. We have approached this legislation with an attitude of how we can make it better, how we can improve on it, and the lessons we have learned in the past that are going to strengthen this program.

This is an important program that makes a real difference in the lives of people. I know the President has some reservations about this program and does not support Perkins in his budget. We take important steps in this bill to strengthen the program and address a number of the concerns the President has.

With that in mind, we are very hopeful we will continue to have the support of our colleagues in the Senate.

I again thank Senator ENZI for his hard work. As we are finding out, he and his staff have welcomed ideas and suggestions. He does not always say yes, but he does not always say no. It has been a real pleasure to work with him. We on our side are in very strong support of this legislation. We believe it is a stronger bill than exists at the current time. We believe it will help in critical areas for young people and old people—continuing education and the adult education programs.

This legislation is about acquiring skills—skills, skills, skills, skills—which we all understand is absolutely essential if this country is going to continue to be the leader of the free world economically and from a national security point of view.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Massachusetts for his outstanding comments, and I appreciate the charts he had giving real-life examples of some things happening in his State. I can tell you that those are happening throughout the Nation.

The issue our committee is concerned about is the high dropout rate in high schools in the United States. Mr. President, 68 percent of the kids who start as freshmen will not graduate. They will drop out of the program at some time. For minorities, it is considerably higher. We are trying to figure out some way to keep them more interested in school, keep them on a learning program, which they will have to be for the rest of their lives if they are going to have high-quality jobs. We believe this bill is the first leg of a three-legged stool that will provide that. We will have other bills we will be bringing along at a later time.

I thank our fellow Senators for their indulgence in allowing us to bring this bill up. I look forward to getting it through the Senate.

Mr. BINGAMAN. Mr. President, I rise today to speak in support of a critical piece of legislation, the reauthorization of the Carl D. Perkins Vocational and Technical Education Act. More than ever, we need rigorous, relevant career and technical education programs to help students prepare for postsecondary education and to address the shortage of highly skilled workers necessary to meet the demands of the contemporary workforce. A skilled and flexible workforce is essential to building a strong and dynamic economy and to maintaining our country's ability to compete in a global economy.

According to a recent U.S. Chamber of Commerce survey, 75 percent of employers report severe difficulties when trying to hire qualified workers, with 40 percent of job applicants having poor skills. Further, a survey by the National Association of Manufacturers found that 80 percent of manufacturers experience a shortage of qualified workers. Most troubling, as many as 3.3 million jobs may be sent overseas in the next 15 years, resulting in American workers losing $136 billion in wages.

With this reality, it is vitally important to support S. 250, the Carl D. Perkins Career and Technical Education, CTE, Improvement Act of 2005. This legislation promotes a rigorous curriculum, innovative learning environments, and relevant coursework and

training, thus ensuring students receive the education and training necessary to develop a highly skilled workforce. Strong career and technical education programs are essential in addressing this shortage of highly skilled workers and in preserving American jobs.

Career and technical education must be academically rigorous and enhance students' critical thinking and applied skills. Accordingly, this bill makes a number of significant improvements to ensure that CTE students participate in a rigorous and challenging curriculum, and realize positive educational and employment outcomes.

For example, the bill integrates challenging academic and technical standards, aligned with No Child Left Behind and nationally-recognized industry standards, into CTE instruction. The bill also strengthens educational and career pathways for students beyond high school and makes significant strides in building alliances among high schools, 2- and 4-year colleges, business and industry, and community organizations. Further, the bill expands career guidance and academic counseling services to ensure that students have a career plan and career objectives.

Well-prepared CTE teachers and good professional development are essential components of an effective, rigorous CTE curriculum. CTE teachers must possess the knowledge and skills to teach effectively. Hence, this bill dedicates resources to promoting the leadership, initial preparation, and professional development of career and technical education teachers to foster effective practices.

Mr. President, this bill is designed to improve student educational and employment outcomes, including their technical and workplace knowledge and skills. But, we must be able to measure how well CTE programs are meeting the needs of its students. Accordingly, the legislation will require states to identify core indicators of performance that include measures of student achievement on technical assessments and attainment of career and technical skill proficiencies.

Thus, it is essential to develop valid and reliable assessments of technical and career competencies that are aligned with national industry standards and integrate industry certification assessments, if available and appropriate. To address this need for high-quality technical assessments, this bill permits State leadership funds to be used to develop valid and reliable assessments of technical skills that are integrated with industry certification assessments where available.

Yet, increasing academic and technical rigor alone is not enough to prepare students to enter into and compete in the 21st century workforce. The learning environment students experience also heavily impacts academic performance and student outcomes. When smaller learning communities are in place, students benefit greatly: they experience a greater sense of belonging to their schools and they have fewer discipline, crime, violence, and substance abuse problems.

I would like to highlight two high schools in my home State of New Mexico which demonstrate some of the best practices of rigorous and innovative career and technical education. Rio Rancho High School, in partnership with Intel Corporation, has served as a model example of how academic rigor, hands-on-learning, strong professional development, defined career pathways, and robust alliances are elements of a successful, quality CTE program. Rio Rancho has created academies of study for all students, which allow students to: pursue career pathways to postsecondary education and beyond; take core courses geared toward interests, skills, and competitive careers; form partnerships with instructors; and become part of a smaller learning community within the larger high school. The academies allow students to explore personal strengths and interests in relationship to career planning and job markets. Accordingly, Rio Rancho has been designated as a Microsoft Center of Innovation and Time Magazine has called Rio Rancho one of the ten most innovative career and technical schools in the nation.

Another great example of innovative career and technical education can be found at Albuquerque High School. In just a couple of years, the career academies at Albuquerque High School have demonstrated very positive student outcomes. The first students in Albuquerque's Academy of Advanced Technology have lower dropout rates and improved academic achievement.

Accordingly, this legislation recognizes that smaller learning communities are a critical educational investment and thus allows local funds to be used to support and develop personalized career themed learning communities. As Rio Rancho and Albuquerque High Schools demonstrate, rigorous career and technical education and smaller learning environments enhance students' achievement and motivation to learn.

Mr. President, this country is facing a crisis. Only 68 percent of our Nation's students are graduating high school with a regular diploma in four years. We must devote more attention and resources to increase graduation rates and promote dropout prevention. Providing quality career and technical education is one crucial way to increase graduation rates. CTE programs provide students with relevance, and are themselves a form of dropout prevention. In fact, quality CTE programs result in positive educational and employment outcomes for students. Effective career and technical education results in increased school attendance, reduced high school dropout rates, increased entry into post-secondary education and greater access to high-tech careers.

Accordingly, we must improve our ability to measure the effectiveness of career and technical education programs. High-quality data systems are essential to collect and analyze information regarding educational and employment outcomes and to inform the development of effective career and technical education programs. The data reported, however, must be complete, accurate, and reliable. Yet present data and data systems are too often incapable of meeting the requirements of career and technical education programs, of states, and of this Act. Accordingly, the bill includes several new provisions for data collection, utilization, and analysis, including provisions which allow the State allocation to be used to support and develop State data systems, and State leadership funds to be used to develop and enhance data systems to collect and analyze data on postsecondary and employment outcomes.

Effective career and technical education programs are necessary to build a strong and dynamic economy and to maintain a competitive American workforce. This legislation evinces some of the best principles of strong, effective career and technical education. Mr. President, I fully support Senate passage of S. 250.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mrs. CLINTON. Mr. President, I am pleased to rise in support of the Carl D. Perkins Vocation and Technical Education Improvement Act. I am proud to be a cosponsor of this legislation and am extremely pleased that this bill was written in a bipartisan fashion. I thank Senator ENZI, Senator KENNEDY, and their staff members, Scott Fleming, Ilyse Schulman, and Jane Oates, for working so hard on this legislation. I sincerely hope that we continue in this spirit of bipartisanship in the HELP Committee.

The bill before us today recognizes the important role of career and technical education for preparing today's workforce and rejects the Bush administration's proposal to eliminate the Perkins program, a proposal that would cost New York approximately $65 million a year. The bill before us today is evidence of a strong bipartisan commitment to maintaining and strengthening the program.

It is an often overlooked fact that the Perkins program is the largest Federal investments in our Nation's high schools. Over 66 percent of all public high schools have at least one vocational and technical education program and 96 percent of high school students in this country will take at least one vocational or technical course while they are in high school.

The Perkins program also plays a key role in postsecondary education. According to the National Center for Education Statistics, nearly 38 percent of all degree-seeking undergraduates are pursuing vocational careers. These

programs play a key role in educating our workforce, and census data consistently shows that people with higher educational attainment have higher median incomes. Nearly 75 percent of employers say they have a very hard time when trying to hire qualified workers, according to a 2002 survey by the U.S. Chamber of Commerce.

In New York, the demand for business career and technical education programs in New York increased by 44 percent between the 2002 to 2003 school year and the 2003 to 2004 school year. In New York City, there was a 211 percent increase in enrollment in the approved business program and a 55 percent increase in the technology and communications programs. And the vast majority of these students are succeeding academically. Eighty-five percent of New York students that completed a career and technical education program passed all of the required regent's exams.

The Perkins program is extremely important—not just for the numbers of students it serves but for the communities that benefit from a better prepared workforce as a result of these programs. This is why for the last 3 years I have spearheaded a letter to the Senate Appropriations Committee requesting additional funding for Perkins. I also offered an amendment to the budget resolution in 2003 to protect the Perkins programs from cuts because I was deeply concerned that President Bush's proposal to slash the Perkins program by 25 percent would be reflected in the Senate's budget.

The Carl D. Perkins Vocation and Technical Education Improvement Act will go a long way towards strengthening vocational and technical education in New York and across the country. Among other things, it will provide for comprehensive professional development for career and technical education teachers, increase States' flexibility to meet their unique needs, and align secondary and postsecondary indicators with those established in other programs to ultimately reduce paperwork.

I am particularly pleased that this bill also improves programs and services for women and girls pursuing nontraditional occupations. Last fall, at a HELP Committee hearing on vocational education, an inspiring woman from New York, Angela Olszewski, testified about how important it is that we support and encourage women and girls in their pursuit of non-traditional, traditionally ''male'' careers—in technology, math, science, and the construction and building trades. Unfortunately, women are still significantly underrepresented in these fields. For example, we know that while the number of women carpenters has tripled since 1972, they still only represent 1.7 percent of all carpenters. You can say the same about many other high-skill, high-wage trades.

Many of these skilled trades industries are experiencing a significant labor shortage and experts expect these shortages to get worse over the next two decades as many workers retire. If women were to enter these professions, most of which are unionized and pay a livable paycheck and benefits, women would increase their earnings and standard of living for their families. For example, a journey-level electrician will make over $1,000,000 more than a typical cashier in a 30-year career.

This bill requires States to measure students' participation and completion in career and technical programs in nontraditional fields and to disaggregate their data on performance by gender and race. In addition, programs will be required to prepare special populations for high skill, high wage occupations that will lead to self-sufficiency. These important provisions will go a long way toward helping more women follow in Angela's footsteps.

Finally, I am pleased that the bill maintains Tech Prep as a separate program, rejecting the Bush administration proposal to eliminate it. Innovative Tech Prep programs in New York have made a real difference in the lives of students. For example, the Syracuse City Health Center Tech Prep program reduced the achievement gap between ethnic groups, white vs. non-white—to 2.8 percent. And at least 65 percent of students in the Syracuse City Health Careers Tech Prep program enroll in health-related professions, where New York has a critical shortage, after high school. In New York State, the average age of nurses is 47 and 80 percent of current nurses will reach retirement age within 10 years.

For all of these reasons, I am thrilled that we are passing this legislation today.●

Ms. MIKULSKI. Mr. President, I rise in support of the Carl D. Perkins Vocational and Technical Education Improvement Act of 2005. To compete in this global economy, we need to make sure our students have 21st century skills for 21st century jobs. Vocational and technical education is an extremely important part of this effort. The Perkins Act, which provides $1.3 billion to help train more than 10 million Americans across the country, is a vital investment in our nation's high schools, community colleges, and our students.

The Carl D. Perkins Career and Technical program gives a boost to America's workforce development system by providing funds to schools that teach technical skills ranging from auto shop to computer programming. The Perkins Act also supports practical career programs and links between secondary and post-secondary education, helping students to move up the opportunity ladder and prepare them for high-skill, high-wage jobs. Students who have completed Perkins-supported programs are better prepared not only for higher education but for the workplace.

The President has proposed eliminating funding for all vocational and technical education programs. This is the wrong way to go. If Perkins was eliminated, high schools, technical schools, and community colleges in every state would suffer. In Maryland, our schools would lose almost $19 million. Last year, we had more than 150,000 students enrolled in career and technical programs in Maryland. In the United States, 97 percent of high school students take at least one career and technical education course. One-third of college students are involved in career and technical programs. And almost 40 million adults attend short-term occupational training. If these schools had to close their doors or shut down their vocational programs, where would these students go to learn the skills they need to get good paying jobs?

Vocational and technical education provides students across the country with opportunities to develop academic and technical skills that are critical for economic and workforce development. It is our job in the United States Senate to make sure these opportunities are there for the people who need them and to invest in our human capital to create a world class workforce. That is why I strongly support this bipartisan bill and I oppose any cuts to the Perkins Vocational and Technical Education programs.

Mr. DURBIN. Mr. President, I rise in support of the Carl D. Perkins Vocational and Technical Education program.

By the year 2010, 80 percent of all jobs in the Nation will require secondary and postsecondary education and training as a prerequisite for a job that supports a middle-class lifestyle. The Perkins Vocational and Technical Education program provides business and industry with the skilled workers they need to compete in the 21st century economy and provides a future of hope for those workers.

Unfortunately, President Bush has proposed eliminating Federal funding for these programs in his fiscal year 2006 budget. This would have a tremendous negative impact across the nation and especially in Illinois, which is receiving $49.6 million dollars in fiscal year 2005 for these programs. In fact, in Illinois, 3 out of 5 high school students are enrolled in Vocational and Technical Education annually, representing more than 348,000 students.

The Senate's strong support for this legislation today demonstrates that the Bush administration is out of touch with regular people and the state of our economy. We need to create more good jobs in America; that's what vocation education programs do.

For example, we need more teachers. Stacy J. attended Capital Area Career center and went on to graduate from Lincoln Land Community College and from there to the University of Illinois Springfield. She earned a Bachelor's in Psychology and an elementary teaching certificate and now works for the Springfield School District. Her path

was largely funded by the Carl D. Perkins Vocational and Technical Education program.

We need car specialists. Nick O. graduated from the welding program at Capital Area Career Center and now works for Ray Evernham Motorsports in research and development and as a tire specialist. Again, Nick took advantage of the Perkins program.

We need electricians, x-ray technicians, dental assistants, and plumbers. Justin K. is an apprentice plumber in Springfield after completed the Perkins program at the Capital Career Center.

We need nurses, carpenters, and firefighters. Andy, Josh and Dustin studied Fire Science at the Kishwaukee Education Consortium.

Because we need these people, we need the Carl D. Perkins Vocational and Technical Education program.

Of course, we also need our students to graduate. Another Perkins program student, Jessica G., began her career as a co-op student from Limestone Community College. She works for the RSM McGladrey Network and is now one course away from earning her masters of business administration. One of the most spectacular attributes of the Perkins program is the increase in the probability of graduation. Participation in a career and technical program raises the probability of graduation by 15 percentage points for those who registered for at least one course and nearly 28 percentage points for those who completed a career and technical program.

The school-based programs supported through the Perkins program provide a foundation for our Nation's workforce development system, by teaching technical skills based on industry standards and workplace skills and employability skills common to all occupations. This program is the single largest Federal investment in the nation's high schools.

We want our students to succeed in their education. This means we need the Carl D. Perkins Vocational and Technical Education program. Research proves students engaged in Perkins-supported programs are better prepared to transition into post-secondary education and the workplace. Students who complete a rigorous academic core coupled with a career concentration have test scores that equal or exceed college prep students. These dual concentrators are more likely to pursue postsecondary education, have a higher grade point average in college and are less likely to drop out in the first year. Fifty-two per cent of all career and technical education students enroll in college.

I strongly support this legislation and commend Chairman ENZI and Senator KENNEDY for their leadership in ensuring that the Carl D. Perkins Vocational and Technical Education program continues.

Mr. BURNS. Mr. President, I rise to speak on behalf of the Carl D. Perkins Career and Technical Education Improvement Act. This bill reauthorizes the Carl D. Perkins Vocational and Technical Education Act of 1998 and supports a key goal for this country's future: to ensure America's students have the knowledge and skills to be competitive in today's global economy. Specifically, this legislation supports the creation of stronger partnerships between high schools, colleges, and businesses to allow for career and technical education programs to better meet the needs of the workforce, including small businesses. Also, S. 250 provides for the creation of outlines for logical sequences of courses, including high school and college courses, that will lead to an industry recognized credential, certificate, or postsecondary degree. Furthermore, this measure promotes activities to improve the recruitment and retention of career and technical education teachers, including those underrepresented in the profession.

As a former member of the organization previously known as Future Farmers of America FFA, I am proud of Montana's highly successful vocational education programs. Montana has over 500 approved career and technical education programs and more than 800 certified teachers in agriculture, business, marketing, family and consumer sciences, industrial technology, and health occupations. Over 160 Montana high schools participate in the Federal Carl D. Perkins and State career and technical education grant programs in order to support and improve their career and technical education programs. These valuable programs prepare Montana K–12 students for a variety of careers and post secondary education programs.

I will continue my strong support of vocational education programs and look forward to working with the leadership as the Senate examines education programs during the 109th Congress.

Mrs. FEINSTEIN. Mr. President, I rise today to support the reauthorization of the Perkins Career and Technical Education Improvement Act of 2005.

This bill is critically important to ensure that students are entering the workforce with the academic, vocational, and technical skills they will need to be successful in today's job market.

According to 2003 U.S. Census data, only 27 percent of Americans have a college degree. Therefore, vocational education programs are necessary to provide occupational training to the majority of high school students who do not go on to earn a bachelor's degree.

Without adequate vocational and technical training programs, these individuals have few career options. Unfortunately, high schools currently offer fewer vocational education classes than in the past, due to funding shortages.

There are many ways in which Perkins funds are used, and I would like to share a few examples of how these dollars are utilized in my State of California which typically receives approximately 11 percent of Federal funding for vocational education through Perkins.

The Fresno Unified School District uses about $1 million in Perkins money to fund vocational education classes in areas such as introductory business, computers, and multimedia for students in grades 7–10.

Perkins funding also helps to pay for 10 resource center facilitators who assist students in researching colleges and registering for entrance exams.

The Los Angeles Unified School District receives Perkins funds to build career and technical education, CTE, programs. With these funds, the district has created 15 ''industry clusters,'' each of which contains a specific career pathway. These industry clusters range from agriculture to the arts to engineering to medical technology.

I understand the importance of Federal support for vocational and technical education, and I will continue to do all I can to ensure that all students have access to the educational opportunities that will allow them to become productive and successful adults.

Mr. GREGG. Mr. President, I am pleased to support S. 250, the Carl D. Perkins Career and Technical Education Improvement Act of 2005. The product of a true bipartisan effort, this bill reauthorizes and strengthens the federal investment in career and technical education programs, which touch students of all ages in communities across the Nation.

I commend Senator Enzi for his extraordinary leadership on this issue. His dedication to creating opportunities for lifelong learning and ensuring that students of all ages have the skills they need to succeed in higher education and in the workforce is reflected throughout this bill.

Nearly every student in America enrolls in at least one career and technical education class during high school, and millions of adults update their skills at the postsecondary level each year. Career and technical education provides increasingly rigorous, relevant learning that prepares students for success in postsecondary education and in a wide array of occupations. Given that a majority of jobs created over the next decade will require skills that only a relative few workers currently possess, it is important that we provide opportunities for students and workers to gain the skills they need to secure and succeed in these jobs.

In many communities, including those in my own State of New Hampshire, innovative career and technical education programs are helping to fill pressing workforce needs, including in fast growing fields like technology and health care. High school students in health science programs may earn CPR

and, first aid certifications and gain valuable clinical experience in hospitals and nursing homes, as well as enroll in certified nursing assistant programs. Through Project Running Start, high school students can earn community college credit in a variety of disciplines. New Hampshire Community Technical College in Nashua offers programs ranging from an FAA-approved aviation technology program to a telecommunications program in partnership with Verizon. Such opportunities at both the secondary and postsecondary level are constantly expanding, offering students more options than ever before.

Career and technical education programs are also helping alleviate shortages of skilled workers in certain industries, such as the automotive industry. The Automotive Youth Educational Systems program, which operates in New Hampshire and 44 other States, is widely regarded as a successful education and business partnership, and has been praised by both the Department of Labor and the Department of Education. The AYES program affords high school juniors and seniors the opportunity to gain valuable experience as interns working alongside skilled auto technicians who serve as mentors. Upon graduation, this work experience then translates into high-skill, high-wage, high-demand jobs for students.

The Carl D. Perkins Career and Technical Education Improvement Act of 2005 would strengthen career and technical education programs in a number of ways. Among the improvements are stronger accountability provisions, increased flexibility for States, and greater emphasis on the integration of academic and technical course content, on connecting programs with business and industry to ensure that students gain relevant skills, and on building pathways from secondary to postsecondary programs and the workforce. All of these efforts will help ensure that students acquire the tools and knowledge necessary to acquire and excel in high-skill, high wage occupations.

S. 250, which I am pleased to cosponsor, stands as an example of what is possible when we work in a bipartisan way in good faith. I would like to thank Senator KENNEDY and my colleagues on the other side of the aisle for their commitment to career and technical education and for helping move the reauthorization process forward.

This bill was also crafted with significant input and support from the career and technical education community, which helped us refine and improve the legislation. The result is a work product of which we can all be proud. I look forward to the bill's final passage.

Mr. REED. Mr. President, I am pleased to be a cosponsor of the Carl D. Perkins Career and Technical Education Improvement Act. By passing this legislation today, the Senate recognizes the critical need to maintain the Perkins program—the Federal Government's single biggest investment in our nation's high schools.

The Carl D. Perkins Career and Technical Education Act provides a vital link between students and the high-skilled workforce American business depends on to thrive. It funds rigorous and challenging career and technical education programs that give more than 10 million Americans the opportunity to attain the specific skills needed to successfully embark on careers and undertake further education.

The President's decision to eliminate this program in his fiscal year 2006 budget proposal is exceedingly shortsighted. It would aggravate the skills gap that employers already face and cost our country in future competitiveness, productivity, and innovation. The President seeks to eliminate a $1.3 billion investment, $6.4 million of which would be a loss to my state, Rhode Island.

Instead, the Senate's action today will help ensure this program's continued success.

I am especially pleased that this legislation contains provisions I authored to address the needs expressed to me by educators in Rhode Island. As I have in other education reauthorization bills, I worked to strengthen professional development programs for career and technical educators, principals, administrators, and counselors. I also ensured the legislation gives states more flexibility in their use of funding and in implementing innovative statewide initiatives. In addition, I added language to ensure schools can offer students the benefit of real-world internships and other work-based learning experiences to enhance their skills.

These and other provisions in the bill will strengthen the Perkins Act. I sincerely hope that we will maintain the same cooperative and bipartisan spirit as we work toward final passage of this bill.

Mr. KENNEDY. Mr. President, I commend my friend, Chairman ENZI, for his bipartisan leadership on this legislation and his effective work in bringing it before the full Senate today.

One of our highest priorities in Congress is to expand educational opportunities for every American. Especially in this age of globalization, we want every one of our citizens to have the learning and the skills essential to the continuing strength of our modern economy. We want them to fulfill their hopes and dreams, to raise healthy families, and contribute to their communities. We will be a fairer and stronger America when every citizen takes part and contributes.

We know that in today's global economy, every person counts more than ever. We cannot afford to leave out anyone. We must equip our citizens to compete in the global economy—not by lowering their pay and sending their jobs overseas, but by increasing their skills.

The legislation before us today will strengthen our commitment to a vital aspect of that mission, by equipping millions of young Americans with the skills they need through career and technical education.

There was a time in many schools when vocational education meant simply an extra class in shop. But today in Massachusetts, and many other states, we see the vital role that vocational education—now appropriately called career and technical education—can have in transforming the lives of students and workers, and in strengthening our economy.

Career and technical students are high school students who want to link their learning to a career. They are students who want a real world application of their high school education. They are students who earn college credits or earn industry-recognized credentials and pass state licensing exams while still in high school. Career and technical education today is designed to prepare and train students for 21st century jobs.

Career and technical education students go on to higher education—almost two-thirds of all high school graduates of career and technical programs enter college or another form of postsecondary education.

In addition, through its educational programs at the postsecondary level, the Perkins Act also serves adults who are seeking critical training to be competitive in the job market. Whether we are talking about new immigrants, struggling adults, or women who are seeking employment outside the home for the first time, these are adults who need specially designed programs.

In Massachusetts, career and technical education serves more than 70,000 students. Through Perkins funding, high school programs in partnership with community colleges and local businesses, provide students with the academic and technical skills they need to continue their education or to compete for high-skill, high-wage jobs immediately. The outcomes of these programs are extraordinary. Last year, 95 percent of career and technical education students in Massachusetts passed our state assessment—the MCAS exams.

The Perkins program has worked to reduce the gender imbalance in earnings by emphasizing the importance of eliminating discrimination and actively recruiting students for non-traditional employment. The segregation of certain demographic groups into low-wage industries can and should be corrected as soon as possible through education. The program sets aside specific dollars for the collection and dissemination of occupational and employment information. Providing the most complete and up-to-date information is essential if counselors are to help their students make good decisions about course selection and career choice.

To be competitive in today's economy, we need a renaissance in math, in

science, and in technical skills. Technology and innovation are essential for America's economic strength and competitiveness in the future. The Tech Prep program in this bill addresses these needs by creating programs that integrate technology skills based on employer needs. At Springfield Technical Community College in Massachusetts, students can enroll in the Diagnostic Medical Imaging Program. They take rigorous math and science courses that prepare them to use today's newest technology.

It has always been a priority for our committee to see that all students have the opportunity for high quality educational opportunities. Ensuring strong career and technical programs is an essential part of reaching that goal. In the legislation before us today, we were able to address critical issues for the continued growth of this program—the integration of academic and technical education, the use of funds for secondary and post-secondary programs, and the importance of the Tech Prep programs that form the bridge between the high school and college programs.

Our bill also builds on existing provisions designed to ensure that students, parents and teachers have the information they need to select the courses that will give them the best options for obtaining a good job or continuing with their education after high school.

This bill also addresses the unique professional development needs of Career and Technical Education teachers. Every day, we see rapid pace of change in industry. Cell phones and computers can become obsolete in a year. Teachers need to see the changing aspects of the industries that they teach about in the classroom, so that their students of all ages can receive the best possible training. Local schools and districts must provide opportunities for these teachers to spend time with the industries they are teaching about. They are preparing the next workforce generation, and their knowledge base must be state of the art.

In Massachusetts, Perkins grants fund a wide variety of important programs. Students in Brockton have received onsite clinical training in health care facilities.

In New Bedford, a city that has suffered tremendously with the outsourcing of manufacturing jobs, the regional technical school has begun an engineering program in partnership with 2 and 4-year colleges, Texas Instruments and Bose.

Graduates will be able to earn $22,000 a year directly after high school, and far more when they go on to earn their college degree.

At Shawsheen Technical High School, six hundred 8th grade students are vying for 320 seats in the program. A third of the students are special education, yet the school has a 100 percent pass rate on the statewide student assessment exams. Learning academic skills in an applied context is responsible for this success. Ninety-seven percent of the graduates go on to immediate employment in their field or continue their education.

Responding to the critical shortage in the nursing profession, Shawsheen has developed an intensive Licensed Practical Nurses program for adults. Classes are held for 10 months, four nights a week from 5:30 to 10 p.m. Students serve in clinical rotations on alternate weekends at the Lahey Clinic. The program has become an entry to a good career for many low-income adults; 50 percent of those enrolled are minority students and 60 percent are Pell recipients. The first three classes of 40 students each have had a 90 percent retention rate, a 98 percent pass rate for program completers and a 100 percent placement rate in the Merrimack Valley and the graduates are in jobs with an average starting salary of $23 an hour.

In addition, because of Perkins grants, all Massachusetts community colleges have instructional support staff and major funding for adaptive equipment for students with disabilities enrolled in technical education.

None of this would be possible without Perkins dollars.

Again, I commend Chairman ENZI and his staff for all their good work. Special thanks go to Scott Fleming and Beth Buehlmann with Senator ENZI, Kelly Scott with Senator GREGG, Meredith Davis with Senator FRIST, Kristin Bannerman with Senator ALEXANDER, Jenny Hanson with Senator BURR, Bradford Swann and Glee Smith with Senator ISAKSON, Lindsay Morris with Senator DEWINE, Lindsay Lovlien with Senator ENSIGN, Juliann Andreen with Senator HATCH, Prim Formby with Senator SESSIONS, Jennifer Swenson with Senator ROBERTS, Dana Lewis with Senator REID, Mary Ellen McGuire with Senator DODD, Laura Prebeck with Senator HARKIN, Dvora Lovinger with Senator MIKULSKI, Sherry Kaiman with Senator JEFFORDS, Michael Yudin with Senator BINGAMAN, Jamie Fasteau with Senator MURRAY, Catherine Brown with Senator CLINTON, Kristen Romero and Amy Gaynor from Legislative Counsel, and Carmel Martin and Liz Maher of my staff.

And I want particularly to express my appreciation to Jane Oates who had principle responsibility for this bill for my staff. I am grateful for her important contributions and insights on this legislation.

I thank our Chairman, Senator ENZI, for moving this bill so quickly through our Committee and am pleased we are able to move it to final passage today. I urge my colleagues to support it.

Mr. DODD. Mr. President, I am here today in support of a bipartisan bill that would reauthorize the Perkins Vocational and Technical Education Act. Few issues are as critically important to the future of the country as the competitiveness of our workforce. This bill will help to ensure America's economic dominance for years to come.

Essential to strengthening the workforce, the Carl D. Perkins Career and Technical Education Improvement Act not only prepares youth and adults for the careers of today, it prepares them for the careers of tomorrow. For that reason, it is the first line of defense in ensuring America's competitive advantage in a global economy.

We have heard a lot lately about American students losing their competitive edge. In math and science our fourth graders are among the best in the world but by their senior year of high school, they score near the bottom of all industrialized nations. Our college dropout rate is one of the highest in the world. The United States has dropped from first to fifth in the percentage of young adults with a college degree. Singapore has displaced the United States as the top economy in information technology competitiveness. And, the number of patents awarded to Americans is declining. Clearly, all of this is having an effect on our global competitiveness.

The problem is further compounded by the fact that our universities are facing intense competition in higher education and are slipping in their ability to attract the world's best students. Yesterday, the Council of Graduate Schools released a study showing that foreign applications to graduate schools are down 6 percent. These are individuals that contribute to the cutting-edge research American universities and corporations have long been known for.

Do we need to increase our efforts to attract these students back? Yes. Do we also need to do everything we can to increase our competitiveness from within? Yes. The bill before us will help us to do that.

The bill before us does a number of important things. First and foremost, it emphasizes accountability and improved results. Second, it improves monitoring and enforcement. Third, it disaggregates performance goals and report information by special populations so no one falls through the cracks. And fourth, it strengthens the ties between industry, high schools, and higher education by ensuring that teachers are well trained, that students are academically ready for college, and that high schools are training students for the actual needs of their communities.

The premise of the bill is that high schools, industry and higher education need to work together to provide our workforce with the skills that they need in order to achieve and compete in the 21st century. This bill works to ensure that American students are not just getting a world-class education, but the best education in the world.

I would be remiss in my remarks if I did not mention the President's proposed elimination of the Perkin's program in his fiscal year 2006 budget. And, I would be remiss if I did not commend the leadership of Senator ENZI, our committee chair, in bringing this

bill forward despite the President's plan. Senator ENZI's unwavering commitment in this area is unparalleled. I hope that the administration understands that our decision to make this the first major piece of education legislation that we take up this Congress is reflective of our unwavering commitment to career and technical education. We will not let this program fall by the wayside. Perkins will not be eliminated.

We often hear the pledge that we will leave no child behind. May I suggest that we also make every effort to ensure that we leave no career and technical education student behind? Passage of these important provisions today will go a long way toward ensuring that career and vocational education students are not left behind in the classroom, that they are being held to high academic standards, that their teachers are provided with the training they need to keep up to date with the latest industry needs, and that high schools, industry and higher education work seamlessly together to provide our workforce with the skills that they need to maintain America's economic dominance in the 21st century.

Career and vocational programs are an essential part of keeping students in school and helping our Nation train its workforce. I am confident that this bill will go a long way in helping another generation of Americans succeed, and, in doing so, strengthen our economy.

Mr. KENNEDY. Mr. President, I will be glad to yield back my time.

Mr. ENZI. I yield back my time.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the committee substitute is adopted and the bill will be read a third time.

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

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

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

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

Mr. ENZI. Mr. President, I ask unanimous consent that the next series of votes begin at 4:30 p.m. today.

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

Mr. ENZI. For the information of my colleagues, the next vote, which will begin at 4:30 p.m., will be on passage of the Perkins vocational education bill which was just debated, to be followed by a series of rollcall votes on the remaining amendments to the bankruptcy bill, to be followed by final passage. That means there could be up to seven rollcall votes in this next series of consecutive rollcall votes. Once again, we urge Members to stay close to the Chamber during these votes to avoid missing any.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

Mr. HATCH. Mr. President, I rise today to speak in favor of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and to thank all of the people who made this bill possible. This bankruptcy bill has been a long time coming. We all know how bankruptcy claims have skyrocketed since the last major bankruptcy reform bill in 1978. We all know about the abuses of the system.

Well, that is about to change for the better. This bill is about fairness and accountability. We have made some important changes in this legislation. This bill contains a debtor's bill of rights with new protections that prevent bad actors from preying upon the uninformed.

The bill also includes new consumer protections under the Truth in Lending Act, such as new required disclosures regarding minimum monthly payments and introductory rates for credit cards. It protects consumers from unscrupulous creditors, with new penalties on creditors who refuse to negotiate reasonable payment schedules outside of bankruptcy.

S. 256 provides for protection of educational savings accounts, and it gives equal protection for retirement savings in bankruptcy. It helps women and children by providing a comprehensive set of protections for child and domestic support throughout the bankruptcy process.

This legislation dramatically revises the reaffirmation agreement provisions of the Code. It imposes critical disclosure requirements that will put a stop to abusive practices. It makes the provisions relating to farmers in chapter 12 permanent and broadens its provisions. It cleans up the law governing complex exchanges and thereby reduces systemic risk in our marketplace. It acts to stop abuse.

When this bill hit the floor on Monday, February 28, I mentioned that we were in the last leg of a legislative marathon. The finish line is finally in sight. I am pleased to have been a part of this process and I am even more pleased we are able to pass this important legislation, and I anticipate that it will pass shortly. This bill has been a long time in development. I am proud of what we have been able to accomplish. Today it seems it is finally going to cross the finish line, and it is well worth it.

This bill may not lead to a severe reduction in the number of bankruptcies. I believe, though, that it will reduce the number of fraudulent and abusive filings and help educate consumers to keep their financial houses in order. This is always an important goal. No responsible society can long countenance the open flouting and abuse of its laws.

This bill, with its means test, will discourage such abusive filings by restricting access to chapter 7 liquidation by those with relatively high incomes. We should all stand behind a law that requires people with the ability to repay their debts to actually repay those debts.

Most of our debate on this bill has focused around the means test. There is no doubt that this will discourage some bankruptcy filings, but I also hope our credit counseling provisions will work to persuade even some low-income debtors that there is another way out.

Right now, too many are only hearing one part of the story: Declare bankruptcy. Liquidate your debts. Some attorneys pushing this line, however, leave out the part about the years of ruined credit that result, the inability to get a car loan or a house loan. My hope is our modest credit counseling provisions will persuade some people to stay out of bankruptcy and meet their obligations, do what is right, and keep their credit alive.

While a great majority of Senators support this bill, I know not all of my colleagues are pleased. Last night my friend from Massachusetts, Senator KENNEDY, again voiced his strong opposition to this legislation. This was probably clear from my response. I vehemently disagree with his opinions about this bill, but I hope he understands that we are trying our best.

Could we have done better? I have no doubt about that, not for a second, but I also know this bill has benefitted from some of Senator KENNEDY's suggestions over the years. We have not ignored him, and I hope he understands we appreciate his participation.

I also understand some of my colleagues feel that they may not have been treated fairly in this process. My desire throughout this process, and the desire of my colleagues who supported this bill, was always to act as an honest broker who took the suggestions of the other side with appropriate seriousness. I understand the frustration from some on the other side at the inability to get amendments agreed to or considered on the floor, but I hope they in turn can understand that we have tried our best on this side to balance all of the competing interests in this body

while also trying to get this very important bill done.

In particular, I think we could have done a better job of working through the technical amendments offered by Senator FEINGOLD. Truth be told, I do not think all of these amendments were merely technical amendments. Be that it as it may, Senator FEINGOLD had a right to submit his amendments at the committee and then on the floor. Perhaps the consideration of the Feingold amendments would have been more complete if we had all focused on these proposals earlier in this debate. I fully respect the right of the distinguished Senator from Wisconsin to offer his amendments, even if we know he is opposing the underlying bill, which he always has. Getting all the parties on board is an uphill climb.

I was given the assignment by Chairman SPECTER to try to get this bill reported by the last recess. We accomplished that goal. In that process, I know Senator FEINGOLD feels he did not get a fair hearing in the committee. I hope the final outcome today persuades him otherwise.

For my part, I instructed my staff to meet with the staff of the distinguished Senator from Wisconsin after the markup. Our staffs met on a number of subsequent occasions. We were able to work out several agreements. Frankly, I was sympathetic to several features of other of his amendments. As we all recognize, proposing an amendment is much easier than getting an agreement on an amendment. I want him to know that we tried.

In discussions with the sponsor of the bill, Senator GRASSLEY, the chairman of the Judiciary Committee, Senator SPECTER, our leadership, Senator SESSIONS, who has played a significant role on this bill and others, we had to make a number of determinations over what amendments to support and what to exclude from the bill. These were not easy decisions, and sometimes they had to be made in conjunction with leaders in the House of Representatives, which is not unusual. We do try to work with them, if we can. In this case, I think we have been working with them.

We could not accept all of Senator FEINGOLD's amendments. I think he probably knows that, too. Our staffs made the effort to work through both the substance and the politics of the issues, and these consultations have borne some fruit. That is important to state, because I do not want my colleague to feel badly or feel he has not been treated fairly. I wish we could have found still more common ground, but after consulting with and facilitating consultations between Senator FEINGOLD's staff and my staff and other Senate staff, we at least made some progress.

I thank and congratulate Senator GRASSLEY, the prime sponsor of this bill over the last 8 years. He has worked extraordinarily hard on this bill. It has been a long time in coming. My hat, as usual, is off to him. Senator SESSIONS is another Senator whose hard work made this possible. We all appreciate his work in the committee and on the floor during the last few weeks.

I would also thank the majority leader, Senator FRIST, and the majority whip, Senator MCCONNELL, and the chairman of the Judiciary Committee for their efforts on behalf of this legislation. Chairman SPECTER has been here working hard for the people of Pennsylvania only days after his cancer treatments, and that is not easy to do, and certainly not easy since he has a continuation of those treatments. He is a heroic figure, in my eyes, for the way he has handled himself in this very difficult time.

I must also thank Chairman SHELBY, and Senator SARBANES of the Banking Committee. We all know how vital the Banking Committee was to this process. We could not have gotten this done without their help.

I believe that several Senators from across the aisle deserve recognition as well. I want to once again thank the Minority Leader, Senator REID, and the Minority Whip, Senator DURBIN, for helping to move this bill through the Senate.

Senators BIDEN and CARPER have worked tirelessly for years on this legislation, and they have taken some tough votes to get it done. Senator NELSON from Nebraska has also shown great resolve and deserves recognition for his efforts, particularly with respect to the provisions affecting farmers. Senator JOHNSON has also been committed to this legislation and I thank him.

No thank you list would be complete without the Senator from Vermont. My dear friend Senator LEAHY and I have not always agreed on every aspect of this legislation, but we have worked hard to make it better. Senator LEAHY developed two important amendments that were accepted. Similarly, Senator FEINGOLD—who has been an ardent opponent of this legislation—has nevertheless dedicated himself to improving it. I have enjoyed working with him, and several other Democratic members of the Judiciary Committee over the years—including Senators FEINSTEIN, KOHL, KENNEDY, SCHUMER and DURBIN—to get this bill done.

I would also like to take a moment to thank all of the staff who worked so hard to make this happen. I know that several of them—on both sides of the aisle—have not seen their significant others in weeks. We owe them a great debt of gratitude. If my colleagues would permit me, I would like to name a few of them.

I think the record should reflect that Rene Augustine, a former counsel now at home with her new-born child, and Makan Delrahim and Manus Cooney, both former Judiciary Committee Chief Counsels, worked for years on this legislation and it would not have been possible but for their efforts. Similarly, John McMickle, a former staffer of Senator GRASSLEY who worked on this bill while he was in the Senate, has taken an enormous amount of time away from his young children to help on this project.

For staff who still work here, I think that Senator GRASSLEY'S chief counsel, Rita Lari-Jochum, should be singled out for her hard work and dedication to this bill. She has helped manage this process over the last several weeks, and she has done a fantastic job. Similarly, Mike O'Neill, Judiciary Committee Chief Counsel, and Harold Kim, Chief Civil Counsel, have done an outstanding job—as have the whole Judiciary team. There are several new counsels in that office that were thrown into the crucible in their starting weeks. First with class action, and now with bankruptcy. The record should reflect the professionalism and excellence with which Ivy Johnson, Tim Strachan, Ryan Triplette, Hannibal Kemmerer, and Nathan Morris have conducted themselves. They are a fantastic group.

In Senator SESSIONS office, no one could overlook his chief counsel, William Smith, or his deputy chief counsel Cindy Hayden. Amy Blakenship and Wendy Fleming also with Senator SESSIONS, did a great job as well. They all did wonderful job.

In the Majority Leader and Majority Whip's office, Eric Ueland, Sharon Soderstrom, and Allen Hicks led the team. John Abegg in Senator MCCONNELL'S office, proud father of a baby girl born on the day this bill hit the floor, nevertheless managed to get the job done. Kyle Simmons, Brian Lewis, and Malloy McDaniel all worked vigorously to plan and manage the strategy and votes on amendments. Stephen Duffield and his team at the R.P.C. has also provided timely and accurate information on the bill on a daily, and when needed, hourly, basis.

As my colleagues all know, the Banking Committee played an important role in this process. Senator SHELBY is fortunate to have people like Kathy Casey, Doug Nappi and Mark Oesterle working for him.

I would also like to thank the House Judiciary Committee staff—they have been an invaluable resource and we would not have been able to get this done without them. As always, Phil Kiko provided a steady hand steering important legislation. Susan Jensen is a treasure trove of information and she has devoted herself to this endeavor. Stephanie Moore and Perry Applebaum of Representative CONYER's office, I am sure will help the legislation move through the House.

The hardworking people in the legislative counsel's office have also undertaken a Herculean effort and flourished in the process. I believe that 125 amendments were filed on this bill, and that does not include the 50 or so that we had in Committee. That is a lot of drafting of complex legislation and we all owe Bill Jensen, Matt McGhie and Amy Gaynor our thanks for their contributions during this long trip. I

would add Bob Schiff of Senator FEINGOLD'S staff, who worked to make this a better bill. It is a pleasure to work with him and he is someone we respect. I wish we could have done more for him and his great boss. We have done the best we can.

Finally, on my own staff, Bruce Artim, Kevin O'Scannlain, Perry Barber and Brendan Dunn all worked very hard on this legislation.

My personal executive assistant, Ruth Montoya, has put up with an awful lot over these last few weeks, and I appreciate her as well as my chief of staff Trish Knight, and Susan Cobb and the many others who literally have worked so hard to help me over these last several weeks—frankly, over the last many years. I know there are many others I have not been able to recognize, and they should all know what a wonderful job I believe they have done. I believe we have an important achievement with this bill, and I think it is only a matter of time until we get this bill passed on the floor, which will be a good end.

Mr. President, the bankruptcy legislation cures some abuses in the Bankruptcy Code regarding executory contracts and unexpired leases.

One provision, Section 404(a) of the bill, amends Section 365(d)(4) of the Bankruptcy Code. Presently, Section 365(d)(4) provides a retail debtor 60 days to decide whether to assume or reject its lease. A bankruptcy judge may extend this deadline for cause—and therein is the problem. Some experts believe that too many bankruptcy judges have allowed this exception essentially to eliminate any notion of a reasonable and firm deadline on a retail debtor's decision to assume or reject a lease. Some bankruptcy judges have been extending this deadline for months and years, often to the date of confirmation of a plan.

This situation can be troublesome. For example, a shopping center operator is a compelled creditor. It has little if any choice but to continue to provide space and services to the debtor in bankruptcy. Yet, the current Code permits a retail debtor as long as years to decide what it will do with its leases. Coupled with the increased use of bankruptcy by retail chains, the Bankruptcy Code is seen by some to be tipped unfairly against the shopping center operator.

Some stores curtail their operations or go dark, and still the lessor cannot regain control of its space.

This legislation, like the conference report in the last two Congresses, acts to curb this abuse. It imposes a firm deadline on a retail debtor's decision to assume or reject a lease. It permits a bankruptcy trustee to assume or reject a lease on a date which is the earlier of the date of confirmation of a plan or the date which is 120 days after the date of the order for relief. A further extension of time may be granted, within the 120 day period, for an additional 90 days, for cause, upon motion of the trustee or lessor. Any subsequent extension can only be granted by the judge upon the prior written consent of the lessor: either by the lessor's motion for an extension, or by a motion of the trustee, provided that the trustee has the prior written approval of the lessor. This is important. We are limiting the bankruptcy judges' discretion to grant extensions of the time for the retail debtor to decide whether to assume or reject a lease after a maximum possible period of 210 days from the date of entry of the order of relief. Beyond that maximum period, there is no authority in the judge to grant further time unless the lessor has agreed in writing to the extension.

Retail debtors filing for bankruptcy will undoubtedly factor into their plans this new deadline. Most retail chains undertake a careful review of their financial condition and business outlook before they file for bankruptcy. They will already have an understanding of which leases are ones they wish to assume and which ones they wish to dispose of. The legislation gives them an additional 120 days to decide on what to do with their leases, once they file for bankruptcy. Beyond that 120 day time period, an additional 90 days can be granted for cause. A further extension may be negotiated by the retail debtor and the lessor if circumstances warrant, and any such extension can be granted by a judge only with prior written consent of the lessor. Further, a lessor's prior written approval of one such extension does not constitute approval for any further extensions—each such extension beyond the 210-day period requires the lessor's prior written approval.

The bill in Section 404(b) also amends Section 365(f)(1) of the Bankruptcy Code to make sure that all of the provisions of Section 365(b) of the code are adhered to and that 365(f) of the code does not override Section 365(b).

This addresses another problem under the Bankruptcy Code. The bill helps clarify that an owner should be able to retain control over the mix of retail uses in a shopping center. When an owner enters into a use clause with a retail tenant forbidding assignments of the lease for a use different than that specified in the lease, that clause should be honored. Congress has so intended already, but bankruptcy judges have sometimes ignored the law.

Congress made clear, in Section 365(b)(1) and 365(f)(2)(B), that the trustee may assume or assign an executory contract or unexpired lease of the debtor, only if the trustee gives adequate assurance of future performance under the contract or lease.

In Section 365(b)(3), Congress provided that for purposes of the Bankruptcy Code:

adequate assurance of future performance of a lease of real property in a shopping center includes adequate assurance—

(A) of the source of rent and other consideration due under such lease, and in the case of an assignment, that the financial condition and operating performance of the proposed assignee and its guarantors, if any, shall be similar to the financial condition and operating performance of the debtor and its guarantors, if any, as of the time the debtor became the lessee under the lease;

(B) that any percentage rent due under such lease will not decline substantially;

(C) that assumption or assignment of such lease is subject to all provisions thereof, including (but not limited to) provisions such as a radius, location, use, or exclusivity provision, and will not breach any such provision contained in any other lease, financing agreement, or master agreement relating to such shopping center; and

(D) that assumption or assignment of such lease will not disrupt any tenant mix or balance in such shopping center.

Congress added these provisions to the Code in recognition that a shopping center should be allowed to protect its own integrity as an ongoing business enterprise, notwithstanding the bankruptcy of some of its retail tenants. A shopping center operator, for example, must be given broad leeway to determine the mix of retail tenants it leases to. Congress decided that use or similar restrictions in a retail lease, which the retailer cannot evade under nonbankruptcy law, should not be evaded in bankruptcy.

It is my understanding that some bankruptcy judges have not followed this Congressional mandate. Under another provision of the Code, Section 365(f), a number of bankruptcy judges have misconstrued the Code and allowed the assignment of a lease even though terms of the lease are not being followed. This appears to ignore Section 365(b)(3).

For example, if a shopping center's lease with an educational retailer requires that the premises shall be used solely for the purpose of conducting the retail sale of educational items, as the lease in the *In re Simon Property Group. LP* v. *Learningsmith, Inc.* (D. Mass. 2000) case provided, then the lessor has a right to insist on adherence to this use clause, even if the retailer files for bankruptcy. The clause is fully enforceable if the retailer is not in a bankruptcy proceeding, and the retailer or the bankruptcy trustee or judge should not be able to evade it in bankruptcy. Otherwise, the shopping centers operator could lose control over the nature of its business.

In the Learningsmith case, the judge allowed the assignment of the lease to a candle retailer because it offered more money than an educational store to buy the lease, in contravention of Section 365(b)(3) of the Code. As a result, the lessor lost control over the nature of its very business, operating a particular mix of retail stores. If other retailers file for bankruptcy in that shopping center, the same result can occur.

In the past, courts have disagreed about whether Section 365(f) overrides the provisions of Section 365(b)(3). For example, in the case of *In re Rickles Home Ctrs., Inc.*, 240 B.R. (D.Del. 1999), appeal dismissed, 209 F.3d 291 (3d Cir.), cert. denied, 531 U.S. 873 (2000), the

judge disregarded the use clause and allowed a lease sale to go through to a non-conforming user. However, in *In re Trak Auto Corp.*, 367 F.3d 237 (4th Cir. 2004), an appellate court held that a use clause must be strictly enforced under Section 365(b)(3) on sale of the lease, notwithstanding Section 365(f). This legislation provides the necessary clarity by amending Section 365(f)(1) to help make clear it operates subject to all provisions of Section 365(b).

I note that Section 365(d)(4) of the Bankruptcy Code applies to cases under any chapter of Title 11. Language to that effect in the current Code's Section 365(d)(4) is deleted because it is repetitive of Sections 103(a) and 901 of the Code, which already make clear that provisions like Section 365(d)(4) apply to all cases under Title 11.

This bill creates new legal protections for a large class of retirement savings in bankruptcy. This measure has widespread support from a long list of groups, ranging from the American Association of Retired Persons, to the Small Business Council of America and the National Council on Teacher Retirement.

Let me take this opportunity to point out that the assets of some pension plans already are protected from bankruptcy proceedings. The United States Supreme Court has ruled in Patterson v. Shumate, reported at 504 U.S. 753 (1992), that assets of pension plans which have, and are required by law to have, anti-alienation provisions, are excluded from bankruptcy estates.

Let me be absolutely clear that this provision is not intended in any way to diminish the protections offered under existing law and under the United States Supreme Court's decision in Patterson v. Shumate, but rather, is intended to provide protection to other retirement plans and accounts not currently protected.

Mr. President, this has been a battle, there is no question about it, like all hotly contested issues are. But I think virtually everybody has contributed, and we have had some tough times on the floor. We have had even some bad feelings from time to time. But we have been at this for 8 solid, difficult years. It is unfortunate we could not work out more amendments, also, but we couldn't and still have this bill pass, hopefully for the last time. We worked in good faith to try to do that.

For those who feel they have not been treated as fairly as I would certainly have wanted to treat them or I feel I have treated them and others as well have treated them, we feel bad about that and hope they will forgive us for not being able to make some of the changes that perhaps we would have made had this been the first year of this bill and we didn't have the difficulty of meeting the suggestions of our friends over in the other body.

We think they have done a terrific job. The people in the House of Representatives are tremendous leaders, from Chairman SENSENBRENNER right on through the whole Judiciary Committee and, of course, the leadership over in the House as well and others who are not on the Judiciary Committee but are concerned about this very important bill. They work closely with us. It is difficult for them and it is difficult for us, but that is the way these two bodies ought to work together, and this bill is a perfect illustration of what can happen if good people can get together, compromise on some of these issues that can be compromised, and yet stand firmly so we can pass legislation like this that will benefit the whole country.

In my final remarks, let me recognize the efforts of Ed Pagano and Bruce Cohen of Senator LEAHY's office and Jim Flug and Jeff Teitz of Senator KENNEDY's office for all the hard work they have done over the years on this issue as well. It is a pleasure to work with staff on the Judiciary Committee. They are bright. They are articulate. They are brilliant, as a matter of fact. That is what you want in Judiciary Committee staffers. I wish those on the minority side would not be nearly as tough as they are, but I respect them for being that way.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT OF 2005—Continued

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 43 Leg.]

YEAS—99

Akaka	Burns	Corzine
Alexander	Burr	Craig
Allard	Byrd	Crapo
Allen	Cantwell	Dayton
Baucus	Carper	DeMint
Bayh	Chafee	DeWine
Bennett	Chambliss	Dodd
Biden	Coburn	Dole
Bingaman	Cochran	Domenici
Bond	Coleman	Dorgan
Boxer	Collins	Durbin
Brownback	Conrad	Ensign
Bunning	Cornyn	Enzi
Feingold	Lautenberg	Rockefeller
Feinstein	Leahy	Salazar
Frist	Levin	Santorum
Graham	Lieberman	Sarbanes
Grassley	Lincoln	Schumer
Gregg	Lott	Sessions
Hagel	Lugar	Shelby
Harkin	Martinez	Smith
Hatch	McCain	Snowe
Hutchison	McConnell	Specter
Inhofe	Mikulski	Stabenow
Inouye	Murkowski	Stevens
Isakson	Murray	Sununu
Jeffords	Nelson (FL)	Talent
Johnson	Nelson (NE)	Thomas
Kennedy	Obama	Thune
Kerry	Pryor	Vitter
Kohl	Reed	Voinovich
Kyl	Reid	Warner
Landrieu	Roberts	Wyden

NOT VOTING—1

Clinton

The bill (S. 250), as amended, was passed.

BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005—Continued

AMENDMENT NO. 90

The PRESIDING OFFICER. There will now be 2 minutes of debate, equally divided, on the Feingold amendment No. 90.

Mr. FRIST. Mr. President, for the information of my colleagues, in consultation with the Democratic leader, we would like to have all of the remaining votes be 10-minute votes. We are going to be enforcing it strictly, so we have a reason to keep moving along. We ask that everybody, once we start voting shortly, stay in the Chamber and continue to vote. We will have 10-minute votes for the remainder of the evening.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, if we have a brief quorum call, I believe we may be able to eliminate the need for some of the votes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

Mr. FEINGOLD. Mr. President, I appreciate the fact that we have had some opportunity to make a few modest modifications at the end of this process. Obviously, I hoped for more, but I do thank the Senator from Utah, Mr. HATCH, the Senator from Alabama, Mr. SESSIONS, the Senator from Iowa, Mr. GRASSLEY, and the Senator from Pennsylvania, Senator SPECTER, who are working on a number of changes and accepting a couple of amendments so we can move this process through. The result will be that the next five votes on my amendments will not be necessary, if this agreement is made. So I hope that causes the unanimous consent agreement to go through.

AMENDMENTS NOS. 90, 93, 95, AND 96 WITHDRAWN

AMENDMENT NO. 92, AS MODIFIED

AMENDMENT NO. 87, AS MODIFIED

I ask unanimous consent that my amendments No. 90, No. 93, No. 95, and No. 96 be withdrawn; that my amendment No. 92, as modified and as at the desk, be adopted; and that a modification of my amendment No. 87 which was agreed to last night be accepted as well.

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

The amendment (No. 92) as modified, was agreed to, as follows:

Credit Counseling Amendment:

(1) On page 34, after line 25, insert—

''(4) The requirements of paragraph (1) shall not apply with respect to a debtor whom the court determines, after notice and hearing, is unable to complete those requirements because of incapacity, disability, or active military duty in a military combat zone. For the purposes of this paragraph, incapacity means that the debtor is impaired by reason of mental illness or mental deficiency so that he is incapable of realizing and making rational decisions with respect to his financial responsibilities; and ''disability'' means that the debtor is so physically impaired as to be unable, after reasonable effort, to participate in an in person, telephone, or Internet briefing required under paragraph (1)'';

(2) On page 42, line 15, strike ''and''; and

(3) On page 43, between lines 3 and 4, insert the following:

''(E) if a fee is charged for the instructional course, charge a reasonable fee, and provide services without regard to ability to pay the fee.''

(4) On page 35, line 12, insert ''who is a person described in section 109(h)(4) or'' after the word ''debtor.''

(5) On page 36, line 9, insert ''who is a person described in section 109(h)(4) or'' after the word ''debtor.''

The amendment (No. 87) as modified, was agreed to, as follows:

On page 445, strike lines 10 through 13, and insert the following:

SEC. 1202. ADJUSTMENT OF DOLLAR AMOUNTS.

Section 104(b) of title 11, United States Code, as amended by this Act, is further amended—

(1) by inserting ''101(19A),'' after ''101(18),'' each place it appears;

(2) by inserting ''522(f)(3) and (f)(4),'' after ''522(d),'' each place it appears;

(3) by inserting ''541(b), 547(c)(9),'' after ''523(a)(2)(C),'' each place it appears;

(4) in pagagraph (1), by striking ''and 1325(b)(3)'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''; and

(5) in paragraph (2), by striking ''and 1325(b)(3) of this title'' and inserting ''1322(d), 1325(b), and 1326(b)(3) of this title and section 1409(b) of title 28''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. BIDEN. Mr. President, I checked with the leader on our side, and I hope it is all right with the Republican leader. I have no amendment relating to the bill. I would like to proceed as if in morning business until anyone has an opportunity to move on the bill, and I will cease and desist at that moment.

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

(The remarks of Mr. BIDEN are printed in today's RECORD under ''Morning Business.'')

(The remarks of Mr. BIDEN pertaining to the submission of S. Con. Res. 17 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

The PRESIDING OFFICER (Mr. THUNE). The Senator from Tennessee.

Mr. FRIST. Mr. President, for the information of our colleagues, we are about to have the last vote of the evening which is final passage of bankruptcy legislation. I thank all Members for their hard work today in the Chamber, as well as the Budget Committee and their efforts on the budget resolution. They made huge progress today. We will start on the budget Monday morning. We expect amendments during Monday's session. Therefore, we do expect the next vote to be Monday evening at 5:30.

Mr. BIDEN. Mr. President, several years ago, when we were considering this legislation, I spoke here on the Senate floor about some important provisions that I think have been overlooked in our discussions. In my remarks today I will repeat what I said back then, in March of 2001.

We have heard a lot in recent days about how this bill lacks compassion—specifically, that it will hurt women and children who depend on alimony and child support.

Critics claim that by making sure that more money is paid back to other creditors, this bill will make it harder for women and children to get what is coming to them.

I am particularly proud of my record of protecting women and children during my career in the Senate. That record includes the Violence Against Women Act to protect women threatened by domestic violence.

I am here again today to show that, contrary to a lot of the rhetoric that has been tossed around, this bill actually improves the situation of women and children who depend on child support. It specifically targets the problems they face under the current bankruptcy system into a virtual extension of the current national family support collection system.

There may be other aspects of this legislation that we can debate: the balance between creditors and debtors, between different kinds of creditors, or between different kinds of debtors. But on the question of child support and alimony, there should be no dispute.

Because this bill strengthens the collection of alimony. Period.

Over the many years we have discussed this bill, it has earned the support of the National Child Support Enforcement Association, which represents over 60.000 child support professionals.

It has earned the support of the National Association of Attorneys General, which has sent a letter of support personally signed by twenty-seven State attorneys general.

Over the years, the child support protections in this legislation were endorsed by the Attorney General of the State of Vermont.

The Attorney General of Minnesota endorsed them, too, along with the Attorneys General from Illinois, from Massachusetts, and from California, Montana, North Carolina, Michigan, Maryland, Iowa, Hawaii, and Washington.

The child support and alimony protections in S. 256 are so far superior to current law that the National District Attorneys Association, representing more than 7,000 local prosecutors, have endorsed them.

In addition to those national associations, those protections have earned the support of: the California Family Support Council, whose 2,500 enforcement professionals are responsible for carrying out the Federal child support program in California;

The Western Interstate Child Support Enforcement Council, composed of child support professionals from the private and public sectors west of the Mississippi River;

The California District Attorneys Association, consisting of elected district attorneys from each of every one of California's 58 counties and over 2,500 deputy district attorneys; and finally,

The Corporation Counsel of the City of New York. Yes, even New York City loves this bill.

Why has this legislation earned such overwhelming support from the professionals out in the field and in the trenches who, ever single day, seek and enforce child support orders?

One reason is the hard work of Phillip Strauss, who, speaking for the National Child Support and Enforcement Association, has represented the concerns of child support professionals in testimony before our committee over the years we have debated bankruptcy reform. From his personal experience with the problems women and children face under current bankruptcy law, he brought together his fellow enforcement officials to draft the provisions I am here to discuss.

As Mr. Strauss and his colleagues have told us, right now the treatment of child support and alimony in bankruptcy is a mess, and this bill fixes it.

When a deadbeat dad files for bankruptcy under the current system, what happens to mom and the kids?

Well, if the dad is actually making the payments, those payments stop. That's right, the payments stop cold. Mom then has to find a lawyer or a government advocate, take time off of work, and go to bankruptcy court to try to get those payments started

again. And when she goes to court, her claim may not be heard that day, so she'll have to return again and again . . . or if she's late, she'll miss her day in court.

What else happens under current law? When dad's bill collectors show up in bankruptcy court, mom has to fight with them over dad's assets. There's a good chance that mom not only needs her payments started again, but she is due past support—support payments dad never made last month, last year. She needs him to pay her back for all the payments he failed to make.

And in asserting her claim, she is not the ''Number 1'' collector in line. Under current law, she is Number 7. That's right—Not So Lucky Number 7. The current Code permits other bill collectors to beat her in the race to get at dad's assets. The current law handicaps her at the starting line. She is forced to wage a fight to make sure she and the kids receive their due.

And what happens after she fights it out with the bill collectors? Well, under the current system, she might be lucky and get every dollar due. But, she may only get a portion of what is due or she may not get one red cent.

That's not right. If a bankrupt household is a sinking ship, then women and children should be protected first. This is what the current law fails to do, but it is what this bill does: it puts women and children first.

S. 256 dictates that even if he files for bankruptcy, dad must continue making those support payments that mom needs to feed and clothe her children. Under this bill, women and children will continue to receive their support payments during bankruptcy, while everybody else, from the credit card bank to the department store, waits for the bankruptcy judge's final order and plan.

That alone would be a major improvement over current law. But that is just the beginning of the advances of this bill over current law.

This bill makes mom ''Number 1'' and places her ahead of all the bill collectors on her past-due claim. No other bill collector—not the credit card company, not the car loan company, not the student lenders—can jump ahead of a mother and her children. Every other bill collector must stand in line behind the family.

What is so great about the continuation of payments and making mom ''Number 1''? As a practical matter, she doesn't have to find room in her hectic schedule to make appearances in a federal bankruptcy court—an intimidating place for most people. She can go to work without interrupting her day. She can complete her errands and pick up her kids after school. Under the bill, she will be automatically first in line on her claims and she will continue to receive her payments during bankruptcy.

When we pass this bill, she does not have to work her way through the bankruptcy system. The system will work for her, not against her.

That's the beauty of this bill: It is self-executing. The provisions to be added to the Bankruptcy Code will function automatically. This is vital. Unrepresented women will not be harmed by the process, as they are under the current Code.

Today, under current law, these women have to get an attorney and go to court to assert their claims.

In addition, under this bill, family support will never be dischargeable. It must be paid in full. All of it.

This is important because, under the curren, domestic debts may not be paid in full or at all . . . believe it or not. Right now, a deadbeat father can file for bankruptcy and come out without paying one penny of support. While his slate is wiped clean, a mother and her children go without. When this bill passes and the President signs it, the law will hold the deadbeat dad's feet to the fire: he will pay, he will pay in full.

There are other important ways that this bill will remove real obstacles to justice that exist in current bankruptcy law.

This bill not only lifts the stay on support payments during bankruptcy, but it adds that, when a wife-beater files for bankruptcy, a domestic violence restraining order against him must remain in effect. It cannot be stayed. And the woman who needs a restraining order against him can still get one.

I have here an order from a family court in my home state of Delaware. A woman went to the court and requested a restraining order against her abuser, who had already filed for bankruptcy. Incredibly, the judge found, under the current Bankruptcy Code, that a proceeding for a domestic abuse restraining order is automatically stayed ''by operation of law.''

That's right. We have judges out there right now who look at today's Bankruptcy Code, and they find that filing for bankruptcy stops all proceedings. They find that we have failed to write an exception for proceedings like those for domestic violence. They find their hands are tied.

Then they send a woman in fear for her life off to a federal bankruptcy court to lift the Code's automatic stay by filing a special motion. Unbelievable.

If you think this is fair, if you prefer this state of affairs, then I guess you will vote against this bill. Personally, I am proud of this bill, and I wish that those who are fabricating wild claims about it would stop. If they have their way, the women and children in this country who depend on alimony and child support will be robbed of real protections. That would be a crime.

Under current law, more than just child support and—alimony are stopped in their tracks by the filing of bankruptcy. That automatic stay, as it is called, stops a lot of other proceedings that could provide real help to women and children.

This legislation changes that. It lifts the stay on a number of methods that family support officials use to go after deadbeat dads, who today can hide behind the bankruptcy system. Unlike current law, this bill would permit reporting the deadbeat's overdue support payments to a consumer reporting agency. Under current law, it would permit restrictions on a deadbeat dad's driving, professional, or recreational licenses. It would permit family support collection officials to intercept his tax refunds.

The legislation also clarifies the definition of support payments, ending conflicting bankruptcy decisions by different courts that today question what support payments actually are.

Most significantly, though, this bill prevents a father from completing bankruptcy unless he has paid all his support obligations due after he filed for bankruptcy.

Let's think about this. Under current law, a father filed for bankruptcy and can complete bankruptcy under a plan that relieves him of his past-due domestic obligations. Under the bill, however, this scenario will become obsolete. A father will never complete bankruptcy until he is paid up. He must pay.

Moreover, the bill protects mom during a bankruptcy plan. Once a father is under a bankruptcy plan and he fails to make his support payments, a mother can march to the bankruptcy court and ask the court to dismiss his plan. The court will call dad back in to explain himself. He doesn't want to make payments during his bankruptcy plan? Fine, he can be thrown out of bankruptcy, and find himself back at square one.

Some claim that this bill lacks compassion. Well, right now, women who want child support orders or who already have orders but fail to enforce them slip through the cracks. If we pass this bill, the Bankruptcy Code will empower women with the information they need.

Section 219 of the bill requires the U.S. Bankruptcy Trustee to notify a woman of her rights to use the services of her state child support enforcement agency and gives her the agency's address and phone number. Better yet, the Trustee likewise notifies the agency independently of the woman's claim. This is striking.

Women who need help will get the information they need, because the bankruptcy system is charged with reaching out to family support professionals—acting under federal family support collection law—and putting them at the service of the women and children who need them.

This last item needs stressing, Mr. President, because so much has been made about what will happen after someone who owes family support payments comes out of bankruptcy. The claim is that other ''more powerful'' creditors will push women and children aside and strip the dad bare before he can make payments to his family.

That makes for a moving story, Mr. President, but it is fiction, not fact.

This legislation requires the bankruptcy Trustee to notify both the woman and the family support collection professionals about the dad's release from bankruptcy, his last known address, the name and address of his employer, and a list naming all the bill collectors who will still be collecting from dad.

This section helps mothers both during and after bankruptcy.

The new notification process will help a mother and the support enforcement agencies keep track of a father, where he is working, and what other bills he is required to pay.

Because of this monitoring, which would be put in place by the bankruptcy system under this bill, mothers and collection agencies can more easily go to court and get that portion of a father's wages that now really belongs to them. Dad may complete his bankruptcy plan, but his obligations do not stop.

These new protections guarantee that family support claims of women and children,will always receive ''Number 1'' priority—during and after bankruptcy. The process for obtaining a portion of a father's wages—through a wage attachment—gives priority to domestic support orders over orders held by bill collectors, including credit card companies.

That money is taken out of his paycheck before he even sees it. He can't be forced by ''powerful creditors'' to choose between them and his alimony or child support. Those payments are automatic. Again, the picture of greedy bill collectors rushing to the front of the line makes for dramatic storytelling. But it is only that—storytelling.

The legislation builds on the existing Federal Child Support Enforcement Program, that exists to help women of all walks of life receive their support payments. By tying Federal dollars to federal standards, current law requires state and local support enforcement agencies to enforce national standards.

A couple of the requirements under Federal family support law are: first, that immediate wage withholding should be included in all child support orders; and second, that the withholding of child support obligations be given top priority over every other legal process under State law against the same wages.

Therefore, after bankruptcy, when a mother and the bill collectors walk into court to make claims against the father's wages, the mother is again ''Number 1'' in priority and those bill collectors fall in line behind her.

In response to some of my colleagues concerns—concerns that I would certainly share if I listened to some of the claims out there—I looked for ways to make the system even tighter.

I found out that the only way to do that was to require a wage attachment, whether the woman wanted one or not. Maybe she wants nothing to do with an abusive husband. Maybe she is afraid for him to know her address. We have to leave that decision up to her, but she will get all the help we can give to help her know her rights.

As I said, I looked for ways to make this bill stronger in support of women and children who depend on support payments, and I simply couldn't find any.

Even if a father does not earn wages, then support enforcement agencies have many tools to use to ensure that the mother and her children are paid. A support enforcement agency can intercept taxes and unemployment benefits, revoke driver's, professional and recreational licenses (like those used for fishing, hunting, and boating), deny passports, and institute criminal and contempt actions.

That is why, even compared to any imaginary ''powerful creditor'' you might be able to conjure up, mothers and children have real, tangible protections and resources at their disposal to bring a first priority claim against a father's wages after bankruptcy.

Finally, let me conclude where I began: with the enthusiasm for this legislation that we have heard from the folks in the trenches.

Here is what the National Association of Attorneys General has asserted: the bill ''improve[s] the treatment of domestic support obligations'' and when the current Code's ''obstacles are removed, as this legislation seeks to accomplish, we believe that our State and local support offices will continue to be able to collect these monies effectively, regardless of whether other lower-priority creditors remain.''

As I mentioned before, the Association's letter was personally signed by the State Attorneys General from twenty-seven States, including the—State Attorneys General from Vermont, Minnesota, Illinois, Massachusetts, California, North Carolina, Michigan, Montana, Maryland, Iowa, Hawaii, and Washington.

The National District Attorneys Association, with more than 7,000 local prosecutors in their membership, does ''not believe that after bankruptcy it would be more difficult to collect support simply because credit card debts are not discharged. To the contrary, support collectors have vastly more effective, and meaningful, collection remedies before a bankruptcy case is filed, or after the case is completed, than any other financial institution . . . It is under the current law, during bankruptcy, that support collectors have the greatest difficulty because they are in competition with all other creditors for bankruptcy estate assets and because their most effective collections remedies have been stayed . . . This legislation provides a major improvement to the problems facing child support creditors in bankruptcy proceedings.''

I support the reform that the enforcement professionals call for, from New York City to California, from Minnesota to Vermont, from Massachusetts to Michigan. I want to save women and children from having to fight their way through a broken bankruptcy system. I want to make the system work for them, not against them.

A vote against this bill is a vote in favor of the current broken system. A vote for this bill is a vote to protect family support payments in bankruptcy.

That is why I support this bill.

Mr. DORGAN. Mr. President, I know that the Senate is about to pass a bankruptcy reform bill, and that this bill will be signed into law. And it is with some regret that I say that I will not vote for it.

I do believe that there have been cases of abuse of our bankruptcy system, and that some reform is needed. Nobody likes to hear of wealthy people who walk away from their debts because they can game the system. That's not fair to financial institutions, and perhaps more importantly, it's not fair to Americans who pay their debts in full.

I voted for a bankruptcy reform bill twice in the past, most recently in 2001. That bill passed in the Senate with significant bipartisan consensus, and I had hoped that it would be signed into law. But the House of Representatives refused to compromise with the Senate, and ultimately the bill failed.

This time around, I would have liked to have reached another bipartisan consensus. However, the bipartisan spirit seems to have broken down.

My colleagues on the Democratic side offered a number of amendments that were reasonable, common-sense tweaks to the bill, to reflect changes in our country since the last time the bankruptcy bill was considered.

There have been hundreds of thousands of National Guard and reserve troops called up because of the conflicts in Afghanistan and Iraq. They have left behind their jobs, their businesses, and their families. When they find themselves in bankruptcy, why not allow them some consideration? My colleague from Illinois, Senator DURBIN, offered an amendment that would have done precisely that, but it was voted down on a largely partisan vote.

Or how about victims of identity theft? In the last few years, identity theft has become a plague on law-abiding citizens. My colleague from Florida, Senator NELSON, offered a most reasonable amendment, which simply said that if someone is forced into bankruptcy because of identity theft, he should receive some consideration. That amendment was also voted down along partisan lines.

Or how about Americans who suffered major medical problems and were driven into bankruptcy? A very recent Harvard Medical School study found that about half of all people that have been driven to bankruptcy have suffered a major medical problem. Many of these people have lost their homes. So Senator KENNEDY offered an amendment that would have allowed such

Americans to keep their home—not a mansion, mind you, but a modest home, while they try to get back on their feet. But this amendment also was shot down.

We have not heard good arguments for why these amendments should have failed. The majority party have really only had one argument: that they want to avoid displeasing the House of Representatives, and don't dare modify the Senate bill even with modest, reasonable amendments.

Well, I am just not going to support a bill that turns its back on service members and veterans, or on hard-working people that just happen to have had a medical crisis, and have been driven into bankruptcy not because they are gaming the system, but because of circumstances beyond their control.

One other point. This bankruptcy bill was supposed to be about preventing cheating in the bankruptcy system. Well, I offered an amendment, along with Senator DURBIN, that would have dealt with a different kind of cheating: the fraud, waste, and abuse that has been rampant in many of the reconstruction contracts in Iraq. My amendment said, let's appoint a bipartisan special committee of the Senate to investigate these abuses. But that amendment did not even get a vote.

In 1941, a Senator from Missouri by the name of Harry S Truman heard allegations of wasteful and fraudulent spending in the preparations for World War II. He thought this waste and fraud could undermine the war effort, so he drove around the country, visiting military bases. And when he came back, he called for the creation of a special committee. That committee, which came to be known as the Truman Committee, saved the U.S. government an estimated $15 billion—and that's in 1940s dollars.

That was a case of a Democrat calling for investigations of contracts handled by a Democratic Administration. But for Harry Truman, this wasn't about politics—it was about looking out for the U.S. taxpayer, and not squandering resources that were meant for the war effort.

We need a Truman Committee again, because the majority party is not calling for oversight hearings on these contracting abuses in Iraq. My amendment would have created a bipartisan special committee to do just that. But it did not even get a vote, because the majority party rested on a technicality in Senate rules to deny a vote.

Under these circumstances, I am, regretfully, not going to vote for the bankruptcy bill.

Ms. MIKULSKI. Mr. President, today I rise to oppose S. 256, the Bankruptcy Reform Bill. This bill is unfair to the little guy—to families who are struggling to overcome medical bills, unemployment, or divorce and find themselves forced to declare bankruptcy. Under the guise of reform it makes it tougher on families who have done the right thing. That's not what we should be doing in the United States Senate. Our job is to make sure we are protecting middle-class Americans and small businesses who are the lifeblood of our economy, not hurting them. While some of the reforms of the bill are good steps it goes too far to favor credit card companies and corporations over working families.

This bill creates such strict standards that many of our nation's most vulnerable families are treated unfairly when they are forced to file bankruptcy because of the loss of a job, the high cost of health care or a divorce. This bill does nothing to address the problems these individuals are having, the problems that have driven them to bankruptcy and it provides virtually no discretion for courts dealing with these bankruptcy claims.

I have supported bankruptcy reform legislation in the past—but it was not this bill and it was not this process. This bill was rushed through Committee with the promise that amendments would be considered on the floor, that there would be debate and an opportunity to improve the bill. Yet, none of the amendments were truly considered, most were opposed by Republicans marching in lock step to defeat every amendment to the existing bill. In short, there was no real opportunity to improve the bill. What came to the floor leaves the floor virtually unchanged and truly unfair to many of our citizens who are forced to file bankruptcy because of unforeseen circumstances like job loss, divorce or medical costs.

Half of all families filing for bankruptcy have faced illness or high medical costs. Medical costs, especially for seniors, are one of the fastest growing causes of bankruptcy. These are not folks who use their credit cards to buy fancy suits, designer wares or other luxury goods. They are paying for the basic necessities of their lives with their credit cards. They are putting their food, clothing and medical bills on the credit cards. Nearly 9 out of 10 people file bankruptcy because of health care problems, job loss or divorce. These individuals don't want to file bankruptcy—in fact, they have tried to avoid bankruptcy. That's why they pay those medical bills with credit cards when they simply can't afford any other way. Or they skip going to the doctor all together because they know have no means to pay. And what happens—they get sicker, incur greater costs for catastrophic care and that sends them spiraling further into debt and forcing many into bankruptcy.

We ought to be doing something to help those individuals—not creating a law that will make matters worse. The Senate should be on the side of those Americans who are facing hard times and hard decisions. We should be addressing the lack of health care and working to ensure that we are creating good, high paying jobs.

I am opposing this version of the Bankruptcy Reform Bill because it creates needless and unfair hoops for these individuals to jump through and the rigid means test puts those in real need of relief at a disadvantage. It imposes new burdens on families already overburdened by the debt they must shoulder. Certainly we all agree that those who can afford to should pay their creditors back—that they should be responsible for their debt. Those debtors who charge thousands of dollars on luxury goods, new cars and the like, only to then declare bankruptcy, should be held accountable. Many of us can remember a mother or father who taught us about debt, taught us the dangers of getting into debt and to be responsible for paying all our debts back. But we need to be fair in how we calculate who can pay. And we need to make sure that the provisions are not so rigid that they allow courts no discretion to take into account the circumstances that lead to the bankruptcy.

The legislation that the Senate considers today is different from past versions that I have supported. There is obviously the removal of the Schumer amendment which held those who block access to abortion clinics accountable for the court judgments that they have incurred. But it also gives women, single parents, families and those living in poverty less opportunity to overcome their hardships and get a fresh start. This bill punishes people, assumes that all those filing for bankruptcy have purposefully created their debt problems, imposes a strict standard that does not take into account the circumstances surrounding the bankruptcy and the real means of individuals to pay their debt back. That's not fair, it's not right, and it makes life tougher on working families. I urge my colleagues to join me in standing up for women, children and working families by opposing this bill.

Mr. REED. Mr. President, today I share my concern over S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and urge my colleagues to vote against this flawed legislation. This legislation provides a misguided and uneven approach to combating bankruptcy abuse, especially because it leaves so many causes of bankruptcy unaddressed.

Most provisions in this bill were written years ago and do not target abuses which have recently gained public attention. When this bill was originally drafted, corporate fraud at Enron and elsewhere had not yet come to light. The executives at these corporations had not yet been caught enjoying huge personal gains at the expense of shareholders and employees only to later file for bankruptcy. This bill does not fully address these types of bankruptcy abuses, and unfortunately efforts to close these loopholes failed.

At the time this bill was drafted, companies were less likely to file for bankruptcy to shed health care and pension obligations to their retirees. In fact, the number of senior citizens in bankruptcy tripled from 1992 to 2001,

representing the largest increase of any group. Today, nearly a million Americans have had their pension plans taken over by the Pension Benefit Guarantee Corporation and their benefits reduced; this is a substantial increase from when the bill was drafted. I am disappointed that this body not only voted against the Feingold amendment that would have helped elderly Americans protect their houses, but also against the Rockefeller amendment to improve employees' claim for owed wages and benefits. The Rockefeller amendment would have also required companies that dropped retiree health benefits to reimburse each affected retiree for 18 months of COBRA coverage upon reemerging from bankruptcy.

The bill adds a means test, which supporters of the bill say will significantly reduce abuse. The nonpartisan American Bankruptcy Institute found that over 96 percent of families seeking to go into chapter 7 bankruptcy would be judged as unable to pay under the new means test. However, the means test would likely deter qualifying families from filing for bankruptcy due to the addition of regulatory requirements and legal costs.

I am not opposed to sensible bankruptcy law reform, but this is a reverse Robin Hood—squeeze the down-on-their-luck middle class and impoverished Americans and give the proceeds to the financial services industry. Contrary to the claims of creditors, many of these families simply cannot pay. About half of families going into bankruptcy have had their utilities or phone shut off, and 60 percent went without medical care. One in five families that are bankrupt because of medical bills went without food. Surveys have shown that many of them want to repay their bills but are unable to, and they must ultimately file for bankruptcy to stop the harassment of collection agents.

This bill does nothing to prevent bankruptcy by targeting its causes. We should work to ensure adequate worker compensation, lower the high cost of health care, improve financial education, and stem predatory lending.

Our middle class is increasingly squeezed. Median family income has been relatively stagnant, rising by only 12 percent in constant dollars from 1978 to 2003. This increase has not kept up with families' sharply increasing costs. Health care costs have risen by 327 percent in constant dollars from 1988 to 2004. The real cost of tuition at a four year public university increased by 646 percent from 1978 to 2003. Child care costs have risen by 35 percent more than inflation from 1986 to 2003.

With less disposable income, families are less able to make it through difficult financial times and can be devastated by a single unexpected event. It saddens me that many of my colleagues in the majority voted against Senator KENNEDY's amendment to raise the minimum wage for the first time in eight years. This measure could have meant the difference to countless Americans between being able to pay their bills and having to file for bankruptcy.

Indeed, according to a new Harvard Law School study, illness or high medical costs cause half of personal bankruptcies. Certainly this is sure to affect the 45 million uninsured Americans, up from 30 million in 1978. It also has a traumatic effect on those who do have health insurance, one-third of whom lost it while they were sick. Yet again, I believe it was a mistake for this body to have killed an amendment to offer protections to patients with high medical bills.

We also continue to see some banks cross the line into predatory lending practices. We must continue to find a balance between providing access to credit and capital and protecting individuals from predatory lending. Unfortunately, as many of my colleagues have pointed out, members of our Armed Forces have become a top target of these unsavory practices. Senator DURBIN's G.I. protection amendment would have extended protections to military members who have been forced into bankruptcy because of income loss connected to their service. It would also have protected them from predatory ''pay day'' loans. Unfortunately, this amendment was voted down.

For all of these reasons, I intend to vote against this flawed legislation, and I urge my colleagues to do the same.

Mr. LAUTENBERG. Mr. President, we are now into our second week of debate on this bill, but in fact, we have been talking about it for 8 years, since it was originally introduced.

During that time, personal bankruptcies in our Nation have surged, while the profits of credit card companies have soared.

We had an opportunity to pass a good bill that would have curbed real abuses of bankruptcy, while protecting consumers who fall on hard times because of a medical catastrophe, divorce or the loss of a job. Instead, the majority rejected dozens of amendments that would have protected the homes of senior citizens, and required credit card companies to level with consumers about how much they would really pay in interest and penalties.

Now we are left with a bill that punishes consumers and lines the pockets of the credit card companies, a bill that protects the mansions of multimillionaires who file for bankruptcy protection but makes it easier for landlords to evict tenants from their homes if they are forced into bankruptcy, and, a bill that makes no distinction between a family struck by catastrophic illness, and a spendthrift who maxes out his credit cards on a shopping spree.

I mentioned catastrophic illness because half of all bankruptcies today are the result of medical debts. Most families who are driven into bankruptcy by a medical problem probably think it can never happen to them because they have health insurance. But it can happen to anyone, and it does.

Three-fourths of the people who file for bankruptcy because of medical debts have health insurance when the medical problem begins.

But eventually their insurance runs out or certain treatments are not covered. And the next thing they know, they are facing financial ruin.

Bankruptcy also hits families that have been torn apart by divorce. On Sunday, the Washington Post published a front-page article about this bill.

The article described how a woman who was left alone by her husband to raise three children had fallen behind on her credit card payments. Even though she worked a second job and paid $2,000 a month to the credit card companies, her debt continued to pile up because of exorbitant late fees and interest rates. This woman was almost an indentured servant to her credit card companies, struggling to pay off a debt that could never be satisfied.

This is not an isolated incident. The trend in the credit card industry today was described by one expert as a ''fee feeding frenzy.''

Credit card companies collected almost $15 billion in penalty fees last year—nearly 10 times the $1.7 billion they collected in 1996.

Penalty fees have become so important to the bottom line that some banks refer to customers who pay their bills on time as ''deadbeats,'' because they cannot be hit with exorbitant penalties.

It has become commonplace for credit card companies to jack up the interest rates of customers who are slightly late with their payments—in some cases, by no more than one day.

Credit companies already charge late fees of up to $39 for every late payment. Piling a higher interest rate on top of that late fee is like double jeopardy, and that is not fair to consumers.

There are many reasons why a consumer might be a day or two late in making a credit card payment. Maybe a child got sick and had to see a doctor, and his mom was too busy taking him to the hospital to worry about a credit card payment. Maybe a car broke down, and it had to be fixed so a worker could get to their job. Maybe the mail was a little slow that week.

Whatever the reason, a consumer should not be unfairly and harshly punished for one late payment.

At the very least, credit card companies should give consumers fair warning before hiking their interest rates. If there is a problem, the consumer should have a chance to correct it before their rate can be increased.

But the credit card companies are not interested in fairness. In fact, they actually hope customers will be late with a payment so they can be hit with penalty fees.

To that end, they engage in ''bait and switch'' tactics to lure consumers with low rates, then automatically jack those rates up the first time a payment is a day late.

One example of this is the Capital One Platinum MasterCard.

Customers going to the Capital One Web site to apply for a credit card will find the following ad, which touts ''a great low rate''—an ''8.9 percent fixed APR.''

This ad is pretty prominent. As you can see, the type is large and easy to read, and there is a nice picture.

On an entirely separate Web page, buried in pages of fine print, Capital One discloses that:

All your APRs may increase to a default rate of up to 25.9% ANNUAL PERCENTAGE RATE if you default under this Card Agreement because you fail to make a payment to us when due, you exceed your credit line or your payment is returned for any reason. Default APRs will be effective . . . immediately.

In other words, despite advertising a ''fixed'' rate of 8.9 percent, Capital One can almost triple a customer's rate to a whopping 25.9 percent—just for sending one payment one day late.

The cost of this rate hike to a customer with a balance of $5,000 would be as much as $880 in interest payments over the following year. That is simply too harsh of a penalty for sending one payment one day late.

This is the dire situation in which many consumers find themselves. Even though they make payments every month, and don't charge any new purchases to their credit card, they fall deeper and deeper into debt. Eventually, seeing no other way out, some of these people declare bankruptcy.

Many States have passed laws to protect consumers from unscrupulous penalties and rate increases. Unfortunately, these laws cannot be enforced, as courts have ruled that the banks are bound by the laws of the States where they are located, not where their customers reside.

As a result, credit card companies have flocked to States with weak consumer protections, creating a ''race to the bottom.''

With this bill, we had an opportunity to put a stop to that, and end the unscrupulous gouging of consumers. By giving consumers a chance to correct problems before they were hit with higher interest rates, we could have prevented many bankruptcies. Unfortunately, we have squandered that opportunity.

This bill does nothing to address the roots of the bankruptcy problem in our country today. And it does nothing to help consumers. For that reason, I must vote against S. 256.

Mrs. MURRAY. Mr. President, today I voted against a bankruptcy bill that puts credit card companies and politics ahead of ordinary Americans. Rather than providing balanced reform, this bill punishes those who have fallen on hard times—particularly our military families and those who are struggling under the weight of soaring medical bills.

I have heard from residents across Washington State that the cost of medical care is forcing them into bankruptcy. In fact, a report last summer by the Working for Health Coalition found that half of Washington State bankruptcies were due to rising health care costs. Most of these families are working and more than half have health insurance, but the growing cost of health care is so overwhelming it pushes them into bankruptcy. A national study last month found that 61 percent of bankruptcy filers did not seek the medical care they needed. These families deserve help, but instead this bill punishes them for circumstances beyond their control.

This bill also fails to adequately protect our military families, particularly our Guard and Reserve members. These patriotic families have had to struggle with half their normal income during long—and often extended—deployments. Many have seen their businesses collapse at home while they have served overseas. I have met with Washington State Guard and Reserve families and have seen how they are struggling to meet the financial burdens of long deployments. They deserve a lifeline, not more paperwork, legal fees, and threats from collection agencies. The Senate had an opportunity to protect our soldiers through Senator DURBIN's amendment, but that was rejected for a Republican amendment that falls far short. Our military families deserve better.

If Republicans had been willing to make the bill less punitive toward ordinary Americans, they would have adopted a number of reasonable amendments in committee and on the Senate floor, but they refused. For example, Republicans blocked an amendment that would have protected workers and retirees if their company files for bankruptcy. Republicans also voted down amendments to ensure the elderly don't lose their homes and to discourage predatory lending. And they even failed to protect people who have had their identities stolen by criminals who then run up huge credit card bills. These are all examples of how Republicans are protecting corporate interests at the expense of vulnerable individuals.

This bankruptcy bill also stacks the deck against women and children. For example, this bill will make it harder for single mothers to collect the past-due child support they and their children are owed.

I am also disappointed that the Senate rejected the Schumer amendment, which would have assured that those who commit violent crimes at reproductive-health facilities against women and doctors do not escape paying their debts and fines by declaring bankruptcy.

Looking at the big picture, this bill fits a pattern of Republican proposals that turn the tide against average Americans. Last month, Republicans tipped the scales of justice against working families by limiting their ability to seek compensation for a death or injury caused by a company's negligence. On Monday, Republicans rejected a proposal to raise the minimum wage. Taken together, these actions will make life harder for working families and represent a dangerous trend that threatens average Americans.

In the past, I have voted for bankruptcy reform legislation, but today families find themselves in a much different place financially because of the costs of healthcare and military service. Congress should not punish them for things beyond their control with this unbalanced, unfair bill. American families deserve reform, not retribution.

Mr. LEVIN. Mr. President, I cannot vote for this legislation, although I support bankruptcy reform. It is clear that some people abuse the bankruptcy system. However, this bill would make it more difficult for individuals and families who have suffered genuine medical and financial misfortune to get a fresh start. Nearly half of all of those studied in a recent research effort by Harvard Law School said that illness or medical bills drove them to bankruptcy and nine out of ten have faced health problems, job loss, divorce or separation. A letter to the Chairman and ranking member of the Judiciary Committee, signed by nearly a hundred bipartisan bankruptcy law professors from law schools across the country, said, ''The bill is deeply flawed, and will harm small business, the elderly, and families with children.''

I have in the past supported reasonable bankruptcy legislation. The legislation which is before the Senate today could have been greatly improved by a number of reasonable Democratic amendments which have been offered over the last several days. However, the Republican majority has largely, on a party-line basis, rejected all amendments out of hand.

I am disappointed that we did not add some reasonable flexibility measures to the ''means test.'' The purpose of the means test is to prevent consumers who can afford to repay some of their debts, from abusing the system by filing for chapter 7 bankruptcy. It makes sense to require those who are able to repay their debts to do so. However, there are some situations that warrant an exception to the means test. For example, the Senate defeated an amendment that would have exempted members of the armed services, veterans, and spouses of service members who die while in military service from application of the ''means test'' provisions of the bill. This would have helped them if their family or their business goes into bankruptcy. That amendment was defeated. Further, an amendment offered by Senator KENNEDY that would have exempted from the means test debtors whose severe

medical expenses have caused the financial hardship was also defeated. Senator CORZINE also offered an amendment that would have exempted economically distressed caregivers from the means test, but that amendment was also defeated by a largely party line vote. The Republican majority even rejected Senator NELSON's common sense amendment that would have exempted victims of identity theft from the means test.

Further, the Senate defeated amendments that would have protected the homes of our elderly and people forced into bankruptcy after a medical crisis.

I am also disappointed that the Senate defeated several amendments that would have closed loopholes used by wealthy individuals seeking bankruptcy protection.

The Senate had an opportunity to close an increasingly popular loophole where the very wealthy shield millions of dollars before declaring bankruptcy by setting up so-called asset protection trusts. Senator SCHUMER proposed an amendment to put an end to this abuse of the tax system by limiting the use of these trusts to shield assets only up to $125,000. The amendment was defeated 39 to 56.

The Republicans also rejected an amendment offered by Senator DURBIN to curtail the abusive practices of executives at companies like Enron and WorldCom who received millions of dollars in compensation shortly before the companies filed for bankruptcy protection. The chamber also defeated an amendment proposed by Senator AKAKA that would have provided credit card users with information to assist them in making more informed choices about their credit card use and repayment. This amendment would have helped consumers understand the consequences of their financial decisions, such as making only minimum payments, so that they can avoid the kind of financial pitfalls that lead to bankruptcy. Sadly, this amendment was also rejected.

The Schumer amendment, which in the past has been strongly supported on a bipartisan basis by the Senate, was stripped from the bill this year. The amendment, which provides that debts arising from violence and threats of violence could not be discharged in bankruptcy proceedings, should have been adopted by the Senate.

We do need bankruptcy reform, and I wish that the Senate had taken this opportunity to pass equitable reform. This bill does not achieve that goal and therefore I cannot support it.

Mr. GRASSLEY. Mr. President, I rise to urge my colleagues to vote for final passage of the bankruptcy reform bill. I have been working on this piece of legislation for a long time, and I am pleased to see that we are nearing the end. This bipartisan bill has been maligned by many, and I want to set the record straight. What we are trying to do is fix a bankruptcy system that has gone awry, where individuals who have the ability to repay their debts don't do so, and the rest of us are left holding the bag.

What we have tried to do with this bill is inject some fairness into the system, whereby people who have assets and the ability to repay back their debts go into a chapter 13 repayment plan, and people who do not have any means and no ability to repay go into chapter 7. We've kept the safety net of full chapter 7 bankruptcy discharge for those who truly need it, and channeled others that can pay their creditors into a repayment plan.

This is done through a means test, which is fair and flexible enough to take into account all the unique circumstances a debtor and his family face. The means test takes into account all reasonable and necessary expenses for a debtor and his family. We provide for a court to consider ''special circumstances'', so that a debtor can show that he doesn't have the ability to repay, and should stay in chapter 7. The bill excludes from the means test poor people, those individuals who are below the median income. So if individuals can pay and they really don't have the ability to pay, they will continue to have their debts fully discharged in chapter 7 bankruptcy, while those who do have assets cannot hide them from their creditors and escape repayment.

Let me mention a couple of things this bill does not do. This bill doesn't put the credit card companies first or leaves hard working families out to dry, as some of the bill's detractors have claimed. In fact, the bill helps women and children and improves their situation when someone files for bankruptcy because it provides new priorities and tools so that child support and alimony will be collected before other creditors. We move child support up in priority, up to number one from number seven in line, and that means that they will be paid before a lot of other creditors, including the credit card companies. The bill makes staying current on child support a condition of discharge. We provide that debt discharge in bankruptcy is made conditional upon full payment of past due child support and alimony.

Domestic support obligations are automatically non-dischargeable, without the costs of litigation. The bill also makes payment of child support arrears a condition of plan confirmation. The bill provides better notice and more information to facilitate child support collection, and tracking down deadbeat parents. Further, the bill protects the name of a debtor's minor children from public disclosure in a bankruptcy case.

This bill also doesn't help credit card companies and other lenders take advantage of honest consumers, as some have alleged. In fact, the bankruptcy bill contains some new real and significant consumer protections. The bill requires credit card companies to make new disclosures that benefit customers and prohibits deceptive advertising of low introductory rates. It requires credit card companies to provide key information about how much money people owe and how long it will take to payoff their credit card debt by only making a minimum payment. The bill requires lenders to prominently disclose when late fees will be imposed, the date on which introductory or teaser rates will expire, and what the permanent rate will be after that time. The bill also prohibits lenders from canceling an account because the consumer pays the balance in full each month to avoid finance charges.

The bill also provides that consumers will be given a toll-free number to call where they can get information about how long it will take to payoff their own credit card balances if they only make minimum payments on their balance. This will educate consumers about their financial situations. In addition, the bill allows for more judicial oversight of reaffirmation agreements, to protect consumers from being pressured into onerous agreements.

The bankruptcy bill also includes a debtor's bill of rights to prevent bankruptcy mills from preying upon those who are uninformed of their rights. The bill provides for penalties on creditors who refuse to renegotiate reasonable payment schedules outside of bankruptcy. The bill provides for penalties on creditors who fail to properly credit plan payments in bankruptcy. The bill strengthens enforcement and penalties against abusive creditors for predatory debt collection practices. Finally, the bill contains credit counseling programs to help consumers avoid the cycle of indebtedness.

So with the bankruptcy bill, we've tried to close loopholes in the system and eliminate abuses. We've created new consumer protections. We've made chapter 12 permanent. We've made sure that financial markets are not subject to risk. Although the bill doesn't contain everything I would have liked to include, it is a good start to putting an end to the abuses.

It has been a long haul, but I think we are finally seeing this bill through to the end. And there are many people that I'd like to thank because they've been instrumental in getting us to this point. I've been quite busy lately as chairman of the Finance Committee, working on social security, medicare and tax reform. I take that responsibility very seriously. Because of Finance Committee markup and hearing conflicts, I have had to rely on my colleagues to manage this bill on the floor. But the job has been in very good hands.

In' particular, I appreciate Senator HATCH and the diligence that he has shown towards this bill. On more than one occasion, he made sure that the bankruptcy bill made it through the committee process so that we could have it considered on the floor. He has stepped up to the plate many a time to manage the bill, work on compromises, and keep the engines running. Senator

HATCH is a good friend and colleague, and I respect his perseverance as well as his legal expertise. I'm glad to see that all his hard work during the years has finally come to fruition. Senator HATCH has been a true stalwart through the years, and I thank him for his dedication to bankruptcy reform. I also want to thank his able staff, Perry Barber, Kevin O'Scanlin and Bruce Artim for all their help on this bill.

I especially want to thank Senator SESSIONS for being a tireless champion of bankruptcy reform here in the Senate. I have relied on his intellect and legal prowess for the last eight years that we've been working on this bill. I believe that Senator SESSIONS has brought a unique perspective to the bankruptcy bill with his dedication to eliminating abuses in the bankruptcy process. He is a firm believer that if you borrow money, you have to pay it back. So I truly am thankful for all the work that Senator SESSIONS has done, especially in managing this bill on the floor. He is one sharp lawyer, and I am honored to have him as my friend. I also want to thank his staff for their excellent work, in particular his talented Chief Counsel William Smith, Cindy Hayden, Amy Blankenship and Wendy Fleming.

I want to thank Chairman SPECTER for placing this bill at the top of the agenda in the Judiciary Committee, and for moving it so quickly and ably in this Congress. His staff, Harold Kim, Mike O'Neill, Ivy Johnson, Hannibal Kemmerer, Tim Strachan, Brendan Dunn and Ryan Triplette have been extremely helpful in getting the job done. I want to thank Majority Leader FRIST and his staff, Allen Hicks, Eric Ueland, Sharon Soderstrom and Dave Schiappa, as well as Senator MCCONNELL and his staff, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis.

I would be remiss if I didn't thank our friends on the House side, and in particular Chairman SENSENBRENNER and his staff, Phil Kiko, Susan Jensen and Ray Smietanka. Chairman SENSENBRENNER has really been a leader on bankruptcy reform, and a true driving force behind this legislation. I look forward to additional collaborations with him.

In addition, I want to thank Senator CARPER, Senator NELSON, Senator BIDEN and Senator JOHNSON. This is truly a bipartisan bill, and it couldn't have gotten done without their help.

Finally, I thank my own staff, my Finance Committee Chief of Staff and Legislative Director Kolan Davis and my Judiciary Committee Chief Counsel Rita Lari Jochum, for their hard work on the bill. I also want to thank my former staffer John McMickle, for his expertise and advice on this important piece of legislation. Good staff is hard to find, and I am proud to say that my staff is probably the best in town.

Mr. NELSON of Nebraska. Mr. President, today, I am pleased to see the passage of S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. This bill has been under consideration in Congress since before I was elected to the Senate. Since my arrival, I have been a proponent of the goals it strives to attain to ensure that abuse of America's bankruptcy laws is curtailed and that Americans who find themselves in unanticipated financial duress and have legitimate reasons to seek bankruptcy protections will have the opportunity to do so.

The goal of the bill is to prevent certain abuses of the bankruptcy system. It includes more than five hundred pages of new and reformed law, but key provisions include the following.

First and foremost, the bill will curb abuse of the bankruptcy system by implementing a means test to ensure that those who can afford to repay some portion of their unsecured debts are required to do so. Bankruptcy petitioners with relatively high incomes could be required to file under chapter 13 instead of chapter 7, and repay some of their debt out of future income. The means test takes into account the petitioner's income, debt burden, and allowable living expenses, which can vary significantly according to the debtor's place of residence and particular circumstances. Filers who cannot afford to repay at least $6,000 will be given unfettered access to chapter 7 liquidation proceedings.

The bill has a safeguard that will allow judges to consider extenuating circumstances in each bankruptcy case. After determining this means test calculation, the judge can then take any ''special circumstances'' into consideration before making a decision to shift the debtor into chapter 13. This will allow judges to consider cases where catastrophic illnesses or other unexpected financial calamities that have impacted a family or individual to the point where their debts are too heavy a load to carry. This provision made many of the amendments considered on this bill redundant.

The bill implements an important safeguard for family farmers by making permanent the extension of chapter 12 bankruptcy rules. Chapter 12 has expired every year, necessitating the need for an extension. Last year, Senator GRASSLEY and I worked in a bipartisan fashion to secure the chapter 12 extension. The bill also bumps the exemption level for family farmers from $1.5 million to nearly $3.24 million, which will be adjusted periodically for inflation.

The bill includes an important provision to safeguard our children. It contains provisions that strengthen the ability of women and children to collect child support and marital dissolution obligations. This provision will enable some families to continue to provide for the needs of their children.

Consumers also benefit from protection measures in this bill. By requiring new minimum payment and introductory rate disclosures for credit cards, consumers will be protected from surprise fees and unexpected rate fluctuation. It also contains a 'debtor's bill of rights' requiring that bankruptcy attorneys and petition preparers disclose their services and fees for those services to consumers.

It is important to note that no American will be denied access to the bankruptcy system under these reforms. However, those trying to shield their assets while abandoning their financial responsibilities will find it much more difficult to abuse the system and leave their debts for other Americans to cover through higher interest rates and fees.

As I mentioned earlier, there were many amendments to this bill offered for consideration. As I considered each of these amendments, I measured the intended impact of each amendment on the bill. In voting against many of the amendments I did so knowing that the groups of individuals singled out by the amendments, such as veterans, individuals with chronic health problems, or military personnel, were already adequately protected in the underlying bill.

I carefully considered each amendment offered to the bill on a case by case basis to determine if the amendment improved the bill. Because I believe the bill already covered most of the issues presented in the amendments, it was my determination than many of the amendments did not improve the bill and thus, I voted against them.

Again, this bill includes a safeguard for judges to consider ''special circumstances'' like medical bills, deployment to war and other circumstances. In addition to this safeguard, I supported an amendment to the bill that clarified the circumstances that might be considered by a judge. That language provided specific examples a judge might consider including ''a serious medical condition or a call to order to active duty in the armed forces.'' I voted for this amendment because it provided an improvement, in the form of clarity on special circumstances.

It is important that creditors, retailers, and small businesses who in good faith provide people with credit do not bare the brunt of the cost when debtors find themselves unable to pay. It is also critical that we protect consumers who have found themselves in unanticipated situations where their inability to meet their debts is beyond their control. And it is important to safeguard consumers against predatory lending practices.

I worked hard to find the correct balance among these competing goals on this bill and feel that the Senate did a good job in accomplishing that overriding principal. I am pleased to support this bill because I believe it provides needed improvements to our bankruptcy protection laws that will benefit every American.

Mr. AKAKA. Mr. President, I am in opposition to the bankruptcy legislation.

The financial services industry has become increasingly complex with new technology, products, and services. However, this dated legislation has not had significant changes made to it since the 107th Congress.

Predatory lending has surged since the initial development of this bankruptcy legislation. In the early 1990s, there were fewer than 200 payday lenders nationwide. Now, there are more than 20,000. Payday lenders made 100 million loans in 2003. These loans represent more than $40 billion. Most alarmingly, according to the Consumer Federation of America, interest rates on these loans begin at 390 percent.

Yet, Congress has failed to act to prevent the exploitation of working families that are short on cash due to unexpected medical expenses or other needs. I am afraid that the passage of this legislation will further reduce the risk for predatory lenders, and as a result, they will aggressively market their products even more. We must act to protect consumers from these unscrupulous lenders. I remain committed to restricting all forms of predatory lending, including payday loans, and to providing consumers with alternative affordable short-term loans.

Access to credit has increased significantly and household debt has skyrocketed as a result. Revolving debt, mostly compromised of credit card debt, has risen from $54 billion in January 1980 to more than $780 billion in November 2004. A U.S. Public Interest Research Group and Consumer Federation of America analysis of Federal Reserve data indicates that the average household with debt carries approximately $10,000 to $12,000 in total revolving debt. This legislation tightens the grip that creditors have on consumers, but it fails to restrict the aggressive marketing practices of credit card companies.

In addition, this bankruptcy bill fails to provide adequate, timely, and meaningful disclosures for consumers. As we make it more difficult for consumers to discharge their debts in bankruptcy, we have a responsibility to provide additional information so that consumers can make better informed decisions. S. 256 includes a requirement that credit card issuers provide a generic warning about the consequences of only making the minimum payment. This provision fails to provide the detailed information for consumers on their billing statements that my amendment would have provided. My amendment would have given consumers the detailed personalized information necessary for them to make better informed choices about their credit card use and repayment. It would have required companies to inform consumers of how many years and months it would take to repay their entire balance and the total cost in interest and principal, if the consumer makes only the minimum payment. The amendment would also have required consumers to be provided with the amount they need to pay to eliminate their outstanding balance within 36 months. Finally, my amendment would have required that creditors establish a toll-free number so that consumers can access trustworthy credit counselors. Unfortunately, this amendment was defeated.

I appreciate the willingness of the Chairman of the Banking Committee, Senator SHELBY, to continue to work with me on this very important consumer awareness issue.

I also proposed an amendment that would have required credit card companies to make concessions to individuals in debt management plans so that credit counseling could be a viable alternative to bankruptcy. Unfortunately, that amendment was also defeated.

I fear that this bill will end up significantly harming families that have suffered financially due to illnesses, the loss of a job, or the death of a loved one. I supported other reasonable amendments intended to protect low-income families, the elderly, and other vulnerable populations from this overly restrictive legislation. However, these amendments also failed.

Instead of making improvements to the legislation, an old, outdated bill has been approved by the Senate. It is low-income working families that will be hardest hit by this anti-consumer legislation. After passage of this legislation, we will need to take additional steps to prevent further exploitation of consumers by unscrupulous lenders and to improve relevant and useful information about credit to consumers. I will continue to fight to protect working families from predatory lenders and overly aggressive creditors.

Mr. KERRY. Mr. President, I strongly believe that reform of our bankruptcy laws is necessary. Too often, bankruptcy is used as an economic tool to avoid responsibility for unsound decisions and reckless spending.

Last year Americans paid interest on about $690 billion in revolving debt. Most of that debt is credit card debt. According to a Consumer Federation of America study, the average household carries between $10,000 and $12,000 in credit card debt and has nine credit cards. Consumers pay an average interest rate of 12.4 percent or approximately $85 billion annually in credit card debt interest.

Let me point out that during both the 105th and 106th Congress, I supported legislation to reform bankruptcy laws and end the abuse of the system.

However, I am unable to support the Bankruptcy Reform Act before us today because I believe it is unfair and unbalanced, does far too little to help consumers and curb creditor abuses, and includes an inflexible ''means test'' that will harm many debtors who are genuinely in need of the protections and the ''fresh start'' that bankruptcy is intended to provide.

The Bankruptcy Code currently offers two alternatives for individuals: chapter 7, under which a debtor's assets are sold and the proceeds are divided among creditors, and chapter 13, under which debtors who have a regular income develop a repayment plan for a portion of the debt. In many cases, debtors filing under chapter 13 repay a greater proportion of their debt than those filing under chapter 7.

The Bankruptcy Reform bill creates a ''means test'' that will make it more difficult for individuals earning above the median income level to erase debts under chapter 7, forcing them to file under chapter 13, which would require them to repay a greater portion of their debt. I believe that those who can afford to repay a greater portion of their debts during the bankruptcy process should be required to do so.

A narrowly targeted reform bill designed to reduce abuse of the system would provide bankruptcy judges with the discretion to dismiss or convert a case to chapter 7, but would not mandate it. It would have provided creditors the opportunity to ask for a dismissal or conversion without putting the burden on every filer to prove that he or she deserves the protections of chapter 7.

However, the ''means test'' included in the bill is inflexible, and it provides no room for a bankruptcy judge to determine whether the circumstances that led to the debtor's financial situation warrant treatment under chapter 7. A parent with a sick child bankrupted by medical bills is treated the same way as a reckless spender who ran up debt on luxury items. That's simply not right.

Again and again, Senators offered amendments that sought to increase the flexibility of the ''means test'' and offered other changes to improve many aspects of this legislation. Unfortunately, in almost every case, these amendments were defeated.

The Senate voted against giving any relief to families forced into bankruptcy by devastating health care costs. One million men and women each year turn to bankruptcy protections in the aftermath of a serious medical problem—and three-quarters of them have health insurance. Senator KENNEDY offered amendments to exempt from the means test debtors who have incurred large medical expenses and other reasonable considerations. Both his amendments were defeated.

The Senate voted against relief for children caught up in their parents' bankruptcy. And it voted against relief to help military families who are struggling with the burdens in Iraq and around the world.

The Senate defeated critical consumer protections that would simply give consumers more information and might help end some of the abusive and deceptive practices of some credit card companies. The industry pushes out an incredible 5 billion solicitations every year. Under current regulations companies can change interest rates at almost any time. They market aggressively and, I believe for some, deceptively. Only last year, the Office of the

Comptroller of the Currency issued an advisory letter warning national banks that engaged in deceptive credit card marketing and account management practices that they would face compliance and reputation risks.

Remarkably the bill does protect the wealthiest Americans by allowing them to continue hiding their assets from creditors during bankruptcy and never making good on their debt. Senator SCHUMER offered an amendment to eliminate and end this abuse, and it was defeated. And it does not stop corporate executives from looting their companies and leaving workers, stockholders, and creditors holding the bag. How can we target middle-class families and ignore the wealthiest Americans as they hide their assets?

This bill is needlessly punitive to families. It is as if we have gone out of our way to harm and not help them. For example, when a debtor receives a bankruptcy discharge, the legislation sets up new classes of nondischargeable debt that will compete for payment along with child and family support. Senator DODD offered an amendment to enable parents to better meet the needs of their children during bankruptcy. Unfortunately, it was defeated. The credit card companies beat the kids on that vote.

This bill is not only detrimental to consumers, but it also hurts our small businesses. This effort to reform our bankruptcy laws will make it more difficult for entrepreneurs to start a small business and imposes additional regulations and reporting requirements on small businesses who file for bankruptcy.

I believe we must do everything possible to ensure the viability of small businesses and to assist in fostering entrepreneurship in our economy. Regulatory and procedural burdens should be lowered for small business wherever possible. However, the bill fails to meet this challenge. Instead, this legislation promotes additional red tape and a government bureaucracy. It imposes new technical and burdensome reporting requirements that are more stringent on small businesses that file for bankruptcy than they are on big business. Further, the bill will provide creditors with greatly enhanced powers to force small businesses to liquidate their assets.

Any big business would have difficulty complying with these new burdensome reporting requirements. But think of the difficulties an entrepreneur or a mom-and-pop grocery store will have in complying with this dizzying array of new and complex requirements. These small businesses are the most likely to need, but least likely to be able to afford, the assistance of a lawyer or an accountant to comply with these new requirements. I cosponsored an amendment offered by Senator FEINGOLD to strike many of the small business provisions in the bill because they would increase reporting requirements on small businesses and make it easier for creditors to force liquidations of small business during the bankruptcy process. Unfortunately, that amendment was not adopted.

I am pleased that an amendment sponsored by Senator COLLINS and myself which will extend chapter 12 bankruptcy protections to our family fishermen, has been included in the bill. The small, family-owned fishing businesses are in serious trouble. We are making progress in rebuilding stocks; however, the cost of this progress has been carried by fishermen working Georges Bank and the Gulf of Maine. The Collins-Kerry amendment will help ensure that fishermen have the flexibility under chapter 12 of the Bankruptcy Code to wait out the rebuilding of our commercial fish stocks without back tracking on our conservation gains to date. It will help preserve the rich New England fishing heritage in Massachusetts.

Despite some provisions, which I do believe improve the system, overall this bill does not provide bankruptcy reform. Inexcusably, this bill helps creditors without helping consumers. It will let the very rich continue to hide money in homes and trusts. It gives no relief to families hit by medical bills or other financial hardship. It even puts credit card companies ahead of children when debt is allocated to creditors. I will vote no.

Mr. SESSIONS. Mr. President, today, for me, marks the culmination of 8 long years of hard work, and I am glad we have finally reached this point, where we will not only pass this bill, but the House will do so as well and the President will sign it into law. I believe that we have eliminated some abuses with this bill. I wish we could have accomplished more, but we could not let the perfect be the enemy of the good. Let me say to my colleagues, that there are some issues like homestead and asset trusts that will come back, and I look forward to working on those, but make not mistake about it, this is a good bill and I am excited to see it pass.

The policy questions we have been addressing are these:

(1) whether bankruptcy is a necessary and permitted way to recover from overburdening debt; and

(2) when is bankruptcy being abused and used as an escape valve for individuals capable of repaying some, if not all, of their debt.

The goal of this bill has never been to create additional burdens for those who have over-extended themselves for one reason or another, but to help them achieve financial responsibility after bankruptcy, so that they can avoid similar setbacks in the future.

It is clear to me that when you have statements from debtors that they are using bankruptcy to ''[take] advantage of one of the opportunities the Government offers,'' that the responsibility for slowing down the 1.6 millions consumer bankruptcy filings per year lies with Congress.

As we approached this bill, our goal was not to punish those who legitimately need the fresh start that bankruptcy offers. However, our goal was to disallow people from filing bankruptcy simply for the sake of taking advantage of a financial opportunity provided by the government. People who can afford to pay all or a part of their debts over a limited period of time should not get off Scot free.

Let me just for a moment, talk about the concept of bankruptcy. The term derived from the medieval Italian phrase ''broken bench.'' Merchants would sell their wares in the marketplace from benches. If the merchant ever reached a point where he could not pay his debts, his creditors would seize all of his wares and divide it among themselves. They did not stop with the seizing of wares, however. The creditors would break the merchants' bench, to bankrupt the merchant from reopening.

Our goal under this legislation was not and we did not ''break the bench.'' Instead of trying to prevent merchants or individuals from having a second opportunity, we accomplished just the opposite. People who need a fresh start under this bill will get one. The people who can pay some of their debts back will have to do that. Let me just highlight a few of the benefits in this bill.

First, S. 256 requires that individuals receive credit counseling prior to filing for bankruptcy. This counseling will help an individual decide if bankruptcy is the appropriate mechanism to remove debt and will help the individual understand what filing bankruptcy actually means. In many instances, the deceptive and fraudulent advertising practices of bankruptcy mills lure consumers into bankruptcy unnecessarily. Debtors should know that there are many ways to get back on their feet financially—such as entering into voluntary repayment arrangements.

To curb the practice of preying upon debtors, S. 256 establishes the Debtor's Bill of Rights. The Bill of Rights requires that debt relief organizations disclose the nature of the services they offer, explain the alternatives to filing bankruptcy, disclose the rights and obligations of debtors who file for bankruptcy, and explain the consequences of filing for bankruptcy.

Second, S. 256 establishes a means test to help determine whether people are capable of paying back a meaningful portion of their debts. This test might help the debtor avoid a Chapter 7 filing, where creditors will liquidate the individuals assets and where the debtor will have a very hard time getting creditors to extend credit to them in the future. If a debtor files under Chapter 13 and learns how to manage money under a structured repayment plan that requires some discipline, the debtor learns financial responsibility and should be able to avoid future financial turmoil. Chapter 13 bankruptcies allow debtors to keep their assets and pay back a portion of their

debts over a 5 year period. In exchange, the remaining portions of their debt are discharged and the debtor gets a fresh start.

Third, S. 256 creates new protections for consumers, especially in the area of credit cards. We require credit card companies to disclose the dangers of making only a minimum payment and we prohibit deceptive practices like advertising low introductory rates—rates used to bait and switch the credit card holder. We also require that a toll-free number be provided to consumers, where they can obtain information on how long it will take to payoff their credit card balances.

The consumer benefits of this bill are enormous. Instead of breaking the bench, this bill promotes financial responsibility. The bill vastly improves the current situation in bankruptcy for certain categories of individuals. For example, it provides special benefits to women and children, through child support and alimony, and provides parents the ability to deduct expenses such as school tuition. Make no mistake about it, while the bill provides some increased protection for unsecured creditors, it provides more protection for consumers. Logically, there is absolutely no reason to oppose it.

Mr. President, over time, many people have worked on this bill, and I would just like to take a moment to express my appreciation for their work.

First, it has been an honor to work closely with Senators GRASSLEY and HATCH to make this legislation a reality. I appreciate both of them so much and I believe they both have done yeomen's work on this bill. I thank Senator FRIST for making this bill one of his top priorities and I appreciate the leadership of Senator MCCONNELL.

I think it is appropriate that we take just a moment to express appreciation to some people who gave extraordinary effort to make this successful conclusion.

First, I note that in my office it has taken three chief counsels to get through this bill. I appreciate the hard work of Kristi Lee, my first Chief Counsel and currently a magistrate judge in the Southern District of Alabama. She did an outstanding job on this bill during the first years that this legislation was in the Senate. I also appreciate the work of my former Chief Counsel Ed Haden, who is currently doing appellate litigation at one of Alabama's outstanding law firms, Balch and Bingham. While I also appreciate the work of my current Chief Counsel, William Smith, and legislative counsels Amy Blankenship and Wendy Fleming for their efforts in this endeavor, my Deputy Chief Counsel Cindy Hayden has really given an extraordinary effort on this bill.

These fine staffers have worked night and day for two weeks to guide this bill to passage. William Smith has given every ounce of his strength to successful passage. He deserves particular praise.

Additionally, I appreciate the work of Lloyd Peeples, a former counsel of mine who has clerked for a bankruptcy judge and now serves as an AUSA in the Northern District of Alabama. He provided invaluable assistance on this bill.

Sean Costello, a former counsel of mine who now works for the Office of Justice Programs at the Department of Justice, provided outstanding work to help make this bill a reality.

Brad Harris, a former counsel of mine who now works for the Burr and Forman firm in Birmingham, never failed in working long hours and providing key assistance in seeing this bill through.

And finally, Brent Herrin, my former counsel who worked hard on cram down and other issues, did outstanding work. Brent practices tax law for the Deloitte Touche firm in Atlanta.

For eight years, these lawyers have all worked on this legislation. I know they are happy to see it come to a conclusion. I am too.

In the past I have thanked the former staffers from other offices that have worked on this bill, I will not name them individually today, save John McMickle who served Senator GRASSLEY and played a major role in helping to craft this bill. John believes in the underlying principles in this bill and I appreciate his work.

I also want to thank Rita Lari Jochum, Senator GRASSLEY's current Chief Counsel. I have seen very few staffers with her drive and dedication and she is to be commended for her efforts on this bill. Her good demeanor has been a source of calm in the storm.

I appreciate the work Perry Barber, Brendan Dunn, Kevin O'Scannlain, and Bruce Artim of Senator HATCH's staff, and the work of Harold Kim, Ivy Johnson, Tim Strachman, Mike O'Neill, Hannibal Kemmerer and Ryan Triplette of Senator SPECTER's staff.

I must also thank Dave Schiappa, Allen Hicks, Eric Ueland, Sharon Soderstrom, John Abegg, Kyle Simmons, Malloy McDaniel and Brian Lewis from the Leadership staffs of Senators FRIST and MCCONNELL, all who have provided tremendous assistance along the way in shaping this bill into its final form.

Mr. President, I also want to thank Chairman SENSENBRENNER and his staff for their remarkable work in getting this bill done. Phil Kilko and Susan Jensen did outstanding work on this bill.

I thank the senior Senator from Alabama, Senator SHELBY, for his work on this bill. He guarded his banking jurisdiction like a roaring lion.

This is a great day, Mr. President. I thank the Chair and yield the floor.

Mr. FRIST. Mr. President, the Senate will soon vote on final passage of the bankruptcy reform bill. This bill constitutes the most sweeping overhaul of bankruptcy law in 25 years. Like class action, bankruptcy reform curbs abuse of the legal system. I am hopeful that it will pass with a strong bipartisan vote.

Bankruptcy reform has long been in the works. Similar bills have passed the Senate in the 105th, the 106th, and 107th Congresses. Today, in the 109th we will finally deliver a package that restores fairness and personal responsibility to the bankruptcy system.

The House has agreed to take up the legislation, pass it quickly, and send it to the President for his signature.

I thank my colleagues for their hard work and leadership. In particular, I would like to thank: Senator MCCONNELL, a good friend and counselor, who has made sure that we have the votes on every amendment and who has helped secure final passage; Senator GRASSLEY, the bill's lead sponsor, who has been a tireless advocate for bankruptcy reform for nearly a decade; Chairman SPECTER, who skillfully led the bill through Committee; Senator HATCH, who, as a floor manager, has led on the substance of each and every amendment; and Senator SESSIONS, who has led debate on the floor again and again, and who lent his expertise to explain the finer points of the law.

Like class action, the bankruptcy reform bill is another example of bipartisan cooperation. Nearly every vote on every amendment has been bipartisan. Our work has been a great example of how thoughtful, bipartisan negotiation can deliver meaningful solutions for the American people.

America has always been a place for second chances. As Americans, we value innovation, reinvention and risk taking. It's part of our national DNA, part of why we are so spectacularly successful. It's also why America has long supported generous bankruptcy law. We recognize that sometimes people get in over their head, or are hit with an unexpected set back, and they need a fresh start, a second chance.

Congress has passed, and courts have upheld, Federal bankruptcy laws for over 100 years. The Constitution gives Congress the express power to ''establish uniform laws on the subject of bankruptcies throughout the United States.''

As the Supreme Court has stated, ''One of the primary purposes of the Bankruptcy Act is to give debtors a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.''

Unfortunately, however, the system has veered away from its original positive intent. In the past two decades, bankruptcies have skyrocketed—actually accelerating during the economic boom years of the 80's and 90's.

Last year, we reached an historic high of over 1.6 million filings per year. The total number of bankruptcies more than doubled during the 1980's and then doubled again from 1990 to 2003. Personal bankruptcies outnumber business bankruptcies by a multiple of more than 45.

We all pay the price for these bankruptcy filings. Every bill you and I pay

includes a hidden ''bankruptcy tax'' of $400 per year per household. That tax is figured into in every phone bill, electrical bill, mortgage payment, furniture purchase, or car loan we pay.

For many people, bankruptcy has become a first step rather than a last resort. Opportunistic debtors who have the means to repay use the law to evade personal responsibility. In some cases, they even plan their bankruptcy, buying a mortgage and running up credit cards and then declaring they're broke.

With this bill, we are putting an end to the abuse. Wealthy debtors who have the means to pay some, or all, of their debt will be required to do so.

The bankruptcy bill establishes a means test based on a simple, fair principle: those who have the means should repay their debts. The legislation specifically exempts from consideration anyone who earns less than the median income in their state. It allows every filer to show ''special circumstances'' if they cannot handle a repayment plan.

And it makes clear that active duty military, low income Veterans, and debtors with serious medical conditions are protected by these safe harbor provisions.

But for those individuals who are abusing the system, they will no longer be able to hide behind the law. Nor will they be able to duck their family responsibilities. These new reforms make child support a high priority.

Most people who get into financial trouble want to do the right thing. They want to make good on their obligations and pay what they owe. But they are in over their head and need a fresh start. This legislation will not affect the vast majority of these filers. What it will do is close loopholes that have let unscrupulous debtors slip through.

Today's impending vote is a victory for fairness, compassion and common sense. It took eight years, but we are finally here.

I applaud my colleagues for their leadership. Together with class action reform, we are returning fairness and common sense to the legal system.

When the legal system gets off track, it affects us all, consumers, creators, and innovators alike. Jobs are lost. Prices go up. We pay in big and small ways. By reforming the system, we strengthen our ability to grow. We keep America moving forward.

I look forward to tackling other lawsuit abuse issues including gun manufacturer liability, medical liability, and asbestos reform. I am hopeful that we will continue to work together delivering meaningful solutions to the American people.

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.

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

Mr. CRAIG. 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 clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) is necessarily absent.

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

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 44 Leg.]

YEAS—74

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

NAYS—25

Akaka	Feinstein	Murray
Boxer	Harkin	Obama
Cantwell	Kennedy	Reed
Corzine	Kerry	Rockefeller
Dayton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Dorgan	Levin	Wyden
Durbin	Lieberman	
Feingold	Mikulski	

NOT VOTING—1

Clinton

The bill (S. 256), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

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

The motion to lay on the table was agreed to.

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

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

Mr. BIDEN. Mr. President, I rise for two purposes. The first is to draw attention to a recent program at the Supreme Court on the work of Justice Robert Jackson and Thomas Dodd, the father of Senator CHRISTOPHER J. DODD, dealing with the International Military Tribunals at Nuremberg. I was happy to read the remarks of my colleague, Senator DODD, at the event, and I was interested to find that many of the conclusions he draws from his father's experiences remain essential to our conduct of international justice today—and, unfortunately, they are all too often forgotten.

I would first echo the remarks made by Senator DODD and salute the extraordinary work performed by Justice Robert Jackson and Thomas Dodd in their roles as the U.S. Chief Prosecutor and Deputy Prosecutor, respectively, at Nuremberg over 50 years ago.

The Nuremberg Tribunal taught us many lessons: that even in the depths of war, justice is not blind; that those who practice terror, oppression, hatred, and mass murder will be punished. Perhaps equally important, however, was the notion that they should also be afforded a trial. Indeed, the United States committed itself to overcoming the passions of the moment and reaffirming the rule of law. I believe this action set an important precedent that is still applicable today.

Critically, the Tribunal also helped record the horrific crimes of the Nazi regime so the whole world would see the brutality and understand the depravity of those unimaginable acts.

Unfortunately, crimes against humanity have occurred since the Nuremberg Tribunals, and they continue to occur today in places such as Darfur in Sudan. I believe that it is again necessary to remind ourselves of the important lessons learned over 50 years ago when Justice Robert Jackson and then Thomas Dodd—soon to be Senator Thomas Dodd—brought before the world the evidence of Nazi atrocities and said, ''This cannot stand.''

I ask unanimous consent that the remarks of Senator DODD at the Supreme Court on February 15, 2005, entitled, ''Justice Served, Lessons Learned: Robert Jackson, Thomas Dodd and the Nuremberg Trials,'' be printed in the RECORD following my comments here today.

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

(See exhibit 1.)

Mr. BIDEN. Mr. President, I encourage my colleagues to take the time to read this speech and consider this important message and its application today.

EXHIBIT 1

JUSTICE SERVED, LESSONS LEARNED: ROBERT JACKSON, THOMAS DODD, AND THE NUREMBERG TRIALS

It's a privilege to be with you in the Supreme Court Chamber, where cases that have changed the course of our nation's history have been argued and decided.

As a United States Senator, it's not often that I make my way across the street to this building and to this branch of government.

Two years ago, I was here to observe oral argument in Nevada Department of Human Resources v. Hibbs. That case considered the constitutionality of the Family and Medical Leave Act. I was interested because I authored the Family and Medical Leave Act in the Senate.

The bill had survived two Presidential vetoes and had taken seven years to become law. But in this institution, these facts were of little consequence. Nothing is quite as humbling as Justices deciding whether or not to strike down a law you labored over for years. I was relieved when the Court, by a margin of 6 to 3, upheld the Act.

But that visit, and others I've made over the years, prompted me to think about the differences between the Senate and the Supreme Court.

Senators show up to work in suits; Justices wear robes.

Senators are under the constant scrutiny of television cameras; Justices have somehow managed to keep them out of this Chamber.

And, of course, Senators have to run for reelection every six years; Justices of the Supreme Court have the best job security in the world.

So it's understandable why no fewer than 13 United States Senators later served on the Supreme Court. That number includes three Chief Justices—Salmon Portland Chase, Edward Douglass White, and Oliver Ellsworth of Connecticut.

I tried to comfort myself by finding what I assumed would be an equally long list of Justices who resigned their seats on the Court for the honor and privilege of serving in the U.S. Senate. But that list was exactly one name long.

That lone individual, I discovered, was David Davis, U.S. Supreme Court Justice, and later Senator from Illinois. He was appointed to the Court by Abraham Lincoln in 1862, and served here for 15 years before resigning in 1877 when he was elected a Senator by the Illinois state legislature.

It should be noted, though, that the U.S. Senate wasn't his first choice. He was a candidate for the presidential nomination five years earlier in 1872. He sought the nomination of what was then known as the ''Liberal Republican'' party. Some might suggest it was that characteristic that would make him most unique today.

I'd like to recognize, of course, Justice Souter, who has joined us this evening. And though he isn't here today, I'd also like to recognize Chief Justice Rehnquist.

Justice Rehnquist is a wonderful student of history who has done so much to educate our nation and the world about this unique institution. And as I'm sure many of you know, from 1952 to 1953 he served as a law clerk for Justice Robert Jackson.

Last month I had the honor of participating in the inauguration of President Bush. I don't think anyone watching the ceremony on that day could fail to be moved by the courage and fortitude displayed by Chief Justice Rehnquist. I think I speak for everyone here, and countless others, as well, in wishing him well this evening.

I'd like to thank Barrett Prettyman of the Supreme Court Historical Society for his kind introduction, and I'd like to thank Professor John Barrett for his historical notes as well.

I'd also like to thank Greg Peterson of the Robert H. Jackson Center for his remarks, and for the invitation to speak to you this evening. And I'd like to welcome members of the Jackson family who have joined us this evening.

If Nuremberg was the most profound experience that influenced my father's life, there were few individuals whose words and ideas carried greater weight with my father than those of Robert H. Jackson.

Justice Jackson was truly an extraordinary man whose life's journey took him from a farmhouse in upstate New York, to the U.S. Department of Justice, where he served as Solicitor General and Attorney General, to the Supreme Court, to a courtroom in Nuremberg, Germany. Following Nuremberg, he returned to this very chamber where, less than five months before he passed away, he and his eight colleagues voted to end racial segregation in schools across our land.

Robert Jackson graduated from neither college nor law school.

And prior to his appointment to the Supreme Court, he had never served as a judge. Yet he became one of the most respected jurists of his time, one known for his thoughtfulness, his fairness, his courage, and his eloquently-written opinions. He was an ardent defender of the freedoms articulated in our nation's Bill of Rights.

Of particular relevance today, Justice Jackson defended these freedoms even during times of war, and even when he was at odds with many of his fellow justices. He was one of only three justices to dissent in Korematsu v. United States, which allowed the detention of Japanese-Americans in internment camps during World War II—a decision we now regard as a stain on our nation's historical commitment to freedom and justice.

Most of all, Justice Jackson was committed to promoting and enforcing the rule of law, not only here in the United States but around the globe, as well.

Having witnessed the horrors of Nazi Germany, he had a deep and abiding belief that the law is humanity's strongest and noblest weapon against tyranny and oppression.

We gather here this evening two days after the 113th anniversary of Justice Jackson's birth, and just a few months after the 50th anniversary of his passing on October 9, 1954.

It's fitting, as well, that we assemble here two weeks after the 60th anniversary of the liberation of Auschwitz.

More than any other events, the liberation of Auschwitz and the Nuremberg trials were the two events that laid bare before the entire world the horrors committed by the Nazi regime.

At liberation, the Western world saw, for the very first time, the gas chambers, the cattle cars, and the crematoria. They saw gruesome piles of corpses, and the emaciated few who had survived the largest and deadliest of Hitler's death camps. At Nuremberg, the war and the Final Solution were painstakingly and meticulously documented and recorded so the existence of these horrific events would never, ever be in doubt.

With each passing day, there remain fewer and fewer of those who can personally bear witness to the atrocities of the Nazi regime. As a result, our generation's responsibility becomes even greater—to ensure that the lessons we learned six decades ago do not fade away into the mist of history.

This responsibility was one that my father took very, very seriously—and it was reflected in how he raised his six children. From a very early age, he would tell us about Adolf Hitler and Heinrich Himmler, and describe places like Auschwitz, Buchenwald, and Dachau.

My father believed firmly that the value of the Nuremberg experience would not only be in the individual sentences meted out to the named defendants—but, in a larger sense, in the legacy the trial would leave to future generations.

In hindsight, some might think it was inevitable that nations like ours would judge criminals like the Nazis according to the rule of law. In reality, there was great debate, both here in the United States and among our allies, over how to handle the Nazi leaders.

We know today that as many as four Supreme Court Justices, and many others including the powerful Senator from Ohio, Robert Taft, felt that the trials at Nuremberg would be a case of ex post facto judgment, and would therefore be illegal under our own Constitution. The Chief Justice at the time, Harlan Stone, called Nuremberg a ''high-grade lynching party.''

A great many in our nation and around the world advocated a different treatment for captured Nazi officials—one that had long been practiced by nations victorious in war: summary execution. Winston Churchill was said to have supported such a policy.

Why, so the argument went, should we show any mercy to these criminals—men who were responsible for the ruthless slaughter of six million Jews, and five million other innocent men, women, and children?

Men who razed to the ground entire villages and towns and massacred those who lived in them.

Men who launched an aggressive war that eventually claimed over 54 million lives, and turned the European continent into a mass graveyard.

The argument was a compelling one. But a different one would win the day. That case was the one advocated by men like Justice Robert Jackson and a young lawyer named Thomas Dodd. These two and others believed that the best way to judge these crimes against humanity, and to deter future crimes, would be a fair, legal trial.

They insisted on the rule of law, rather than the rule of the mob.

And so in the summer of 1945, Justice Jackson assembled not a team of executioners, but a team of legal professionals who would meticulously use the Nazis' own documents, records, and testimony to prove their guilt. My father was one of the men he chose to be on that team.

During his fifteen months at Nuremberg, my father wrote daily letters to my mother. These beautifully written letters always began with the words ''Grace, my dearest one.'' They fill up this volume I hold in my hand—and a second volume of equal length.

I had no idea that these letters even existed until the early 1990's. Before reading these letters I, arranged them in chronological order. I finally completed this long process in the summer of 1995.

Without any prior awareness, you can imagine my shock when on the evening of July 28, 1995, I sat down to begin reading the letters and realized that the first letter to my mother was written on July 28, 1945—50 years earlier, to the day.

My father arrived in Europe on that day with mixed feelings. He knew that he had an opportunity to be part of a historic occasion. But he was reluctant to leave my mother and their children. I was only a year old at the time—and a very active child according to my mother. Sometimes I wonder if I was the reason my father decided to go to Nuremberg.

Ultimately, the decision was made to see the job through. As he explained it, ''Sometimes a man knows his duty, his responsibility so clearly, so surely, he cannot hesitate—he dare not refuse it. Even great pain and other sacrifices seem unimportant in such a situation. The pain is no less for this knowledge—but the pain has a purpose at least.''

He threw himself into a job he expected would last only a few months. In July 1945,

this 38-year-old attorney had no idea that he would be promoted from staff counsel to trial counsel, then to senior trial counsel, and then to Executive Trial Counsel—the deputy prosecutor for the United States.

The Nuremberg trials themselves were an absolutely massive undertaking, with so many questions that had to be answered:

Who would be the judges?

Who would be the lawyers?

Would the defendants be tried together or separately?

Would the trials be conducted under American or European legal customs?

Would they be military or civilian trials?

And perhaps the most pressing practical question: Where would the trials be held?

My father, like many, expressed reservations about holding the trial in Nuremberg. The city, he said, was ''probably the worst in Germany'' in terms of destruction. He suggested that Heidelberg, which had survived the war essentially intact, would have been a better alternative.

But for reasons of principle—if not practicality—he knew that Nuremberg was the right choice. It was, after all, Nuremberg where the Nazis met on September 10, 1935 to codify into law their regime of oppression, terror, and hatred. And so it was totally fitting that in Nuremberg, these Nazis were brought to justice.

My father's ambivalent outlook towards his participation in the trial changed dramatically on August 14th, 1945. On that day, he and his fellow prosecutors began interrogating prisoners. He described it as ''a day I shall never forget,'' and the day that followed as ''the most fascinating day of my life.''

From August through November 1945, my father spent much of his time face to face with some of the most vital cogs in Hitler's murderous Nazi machine. William Keitel. Hans Frank. Rudolph Hess. Hermann Goering. One by one, each of them would do his best to deflect blame and to deny. My father remarked that ''It would be relieving to hear one of them admit some blame for something. They blame everything on the dead or missing.''

Throughout the course of the investigation and trial, my father became one of Justice Jackson's closest associates—and one of his closest friends, as well.

There's no question that my father viewed Justice Jackson as much more than a professional colleague. ''I am proud of my association with him,'' he wrote, ''and even more proud of his friendship.''

My father admired Jackson greatly for his keen intellect, his quiet dignity, and for his steadfast dedication to seeing the trial through to the end. In a letter he wrote to Justice Jackson's son on the occasion of the Justice's passing in 1954, my father called him ''one of a very few great men whom I have been privileged to meet in my lifetime.''

I will not go into much detail discussing the proceedings of the trial itself. Much of the trial was actually fairly tedious. For the most part, anyone expecting tearful admissions of guilt was sorely disappointed.

My father, for his part, presented several aspects of the prosecution's case, including those on concentration camps, on economic oppression, and on slave labor. He cross-examined numerous witnesses, including six of the defendants. Four of those defendants were ultimately sentenced to death. The other two served lengthy terms in prison.

For my father, though, Nuremberg was about much more than the defendants, the evidence, and the sentences. It was about the opportunity, as he put it, ''to write a record that will mark a new point in man's relation with man.''

My father returned from Nuremberg with a deep commitment to the rule of law and its role in upholding the basic human rights and human dignity of every man, woman, and child.

That commitment is the reason why—as a Congressman and a Senator—he was such a staunch supporter of the civil rights movement. It's the reason he was such an ardent opponent of Communism. And it is the reason why he embraced bold new efforts to eliminate poverty in our nation and throughout the world.

My father also left Nuremberg as an ardent believer in the need to create and use law to preserve and promote human dignity.

Nuremberg was essentially a trial without precedent. As I mentioned earlier, when Justice Jackson and others were developing the guidelines for the Nuremberg trials, there was a great deal of debate and disagreement over the legality of the proceedings.

Justice Jackson spent a great deal of time arguing why, in fact, there was legal precedent in international law for the crime of waging aggressive war.

But beyond those legal arguments, there was another, far more fundamental point—a point that Robert Jackson and my father shared. That the crimes committed by the Nazis were so heinous, so unthinkable, that they violated the basic rules by which all of humanity must abide.

As Justice Jackson said in his opening statement, ''The wrongs which we seek to condemn and punish have been so calculated, so malignant and so devastating, that civilization cannot tolerate their being ignored because it cannot survive their being repeated.''

This idea of a natural law, rooted in basic standards and norms of human behavior, was a powerful argument in favor of the Nuremberg trials. Perhaps no document embodies the idea that such basic standards exist more than our own Declaration of Independence, which affirms that ''all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these rights are life, liberty, and the pursuit of happiness.''

Natural law was a concept for which my father was a strenuous advocate. I can remember a story he told me about a paper he wrote at Yale for a professor of his, Harold Lasky, a renowned socialist. In the paper, my father argued passionately in favor of natural law theory. When he got the paper back, a note was written on the front page: ''I disagree with everything you have written. A Plus.''

The Nuremberg trials' lasting legacy, my father believed, would be in international institutions that could punish crimes against humanity, and more importantly, deter those crimes in the future.

As he put it, ''By a declaration of criminality against these organizations, this tribunal will put on notice not only the people of Germany, but the people of the whole world. Mankind will know that no crime will go unpunished because it was committed in the name of a political party or a state; that no crime will be passed by because it is too big; that no criminals will avoid punishment because there are too many.''

Regrettably, my father's and Robert Jackson's vision has not yet been fully realized.

Over the last six decades, we have not witnessed the level of horrific destruction and carnage perpetrated by the Nazis. But we have seen, time and again, terrible crimes against humanity in places like Cambodia, Iraq, Bosnia, Rwanda, and today in the Darfur province of the Sudan.

Tragically, many of the individuals involved in these crimes—people like Joseph Stalin, Pol Pot, and Idi Amin—were never brought to justice. In some of these cases, the world did eventually create tribunals—but always, like Nuremberg, temporary, ad hoc courts that were established after the fact.

To truly be called effective, a court must not simply punish the guilty, then disband. It must serve as a permanent reminder to any potential criminals that they, too, will be held accountable. Such a court can not only punish crimes—it can deter them.

In my view, there is only one kind of institution that can ensure the kind of accountability that can prevent future war crimes—and that is a permanent court empowered to indict, prosecute, and judge international criminals.

After many, many years of effort, the International Criminal Court came into existence on July 1, 2002. Unfortunately, rather than lend its support to this effort, the United States has walked away from it.

I'm aware that there are complex issues that need to be resolved regarding our nation and the International Criminal Court. But I strongly believe that our nation's interests, and the world's interests, would be far better served if we worked to address those issues rather than abandoning the entire process.

What, after all, does it say about a nation that prides itself in upholding freedom, justice, and human rights when it simply disengages itself from an institution whose goal is to promote those values? And what does it say about an institution's power to bring criminals to justice when the most powerful nation in the world refuses to play a part?

The tragic events in Darfur today represent exactly the kind of situation in which people like my father and Robert Jackson envisioned international courts playing a prominent role. It is my hope that the current administration will see the Darfur genocide as an opportunity to participate in this institution in some way, rather than simply standing on the sidelines. Otherwise, the cry of ''never again'' will ring tragically hollow.

There is another legacy of Nuremberg that is just as powerful as its role in the development of international law. As I mentioned earlier, the decision to hold a trial at Nuremberg—rather than summary executions—was not an easy choice.

We rejected the certainty of executions for the uncertainty of a trial. We turned away from violence that was certainly within our ability, and, many would argue, within our right.

But what we learned is that our nation became stronger, and more respected, because we took the course that we did.

At the heart of that decision was the idea that this nation will not tailor its eternal principles to the conflict of the moment—and the recognition that if we did, we would be walking in the very footsteps of the enemies we despised.

This is a principle I believe we would all do well to remember today.

This past year, we all were horrified at the images and stories of abuse of prisoners held in places like Abu Ghraib in Iraq and Guantanamo Bay, Cuba.

The abuse itself was shocking. In my view, though, even more troubling are the comments on this issue that we've heard from some who occupy positions of great power in our government.

Legal justifications for the use of torture by American troops;

For turning over individuals to other nations known to torture detainees;

And, perhaps most egregiously, legal justifications that would explicitly exempt any executive branch official from prosecution for torture ''if they are carrying out the President's Commander-in-Chief powers.''

Sixty years ago at Nuremberg, the United States and our allies considered the defense

''I was just following orders'' to be so cowardly that it was prohibited under the rules of the trial.

Perversely, there are some who consider that defense acceptable for Americans today.

The proponents of these rationalizations tell us that we are living in different times.

That we are facing enemies who show blatant disregard for human life, and whose organizations transcend international borders.

As a result, the argument goes, we must re-evaluate certain conventions and practices that we have long respected.

I wonder how men like Robert Jackson and my father would respond to these arguments. Would they be swayed by them? Would they be persuaded somehow that the followers of Osama bin Laden and Saddam Hussein are fundamentally different from the despicable and depraved defendants who swore allegiance to Adolf Hitler?

Would these men, who prosecuted the Nazis based on testimony and documentary evidence, be heartened by the argument that the best responses we can muster against evil today are attack dogs and water-boarding?

I truly, truly think not. On the contrary, I believe that Robert Jackson and my father would be tremendously disappointed and saddened at some of the actions taken by Americans on behalf of our nation—and by some of the official legal arguments made in support of those actions.

I believe that Robert Jackson and Thomas Dodd would see these actions as a reflection of a government that has turned away from the lessons of history and stepped back from the very values of due process and equal justice that we expect of others worldwide.

Is the threat of international terrorism a dangerous one? Unquestionably. But we cannot allow that danger to compromise bedrock principles which have stood since the birth of our nation—values like the right to be free from torture or from indefinite detention without a charge.

We enshrined these values in our Constitution not simply because we believe Americans are entitled to them. We did so because they affirm a basic sense of human dignity in each and every man and woman. And because we, as a nation, are committed to upholding that dignity—even if others do not.

If we cavalierly toss aside those values in response to a particular enemy or threat, it is not our enemies, but we who will pay the ultimate price.

As Justice Jackson said at Nuremberg, ''we must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well. ''

A century and a half ago, in his second State of the Union address, Abraham Lincoln said that in giving or denying freedom to slaves, ''We shall nobly save or meanly lose the last, best hope of earth.''

The issue then was how our nation treats the enslaved. Sixty years ago, the question was how to treat Nazi war criminals. Today, we face the same choice with regard to the way we treat international terrorists.

If we heed the example set at Nuremberg by people like Robert Jackson and Thomas Dodd, if we treat our enemies according to our standards—not theirs—we feed the flame of liberty and justice that has rightly led our nation on its journey for these past two and a quarter centuries.

And we set a shining and lasting example for a true global community—one grounded in the principles of justice, freedom, and peace.

And we live up to the great memory of Robert Jackson and of a young counsel named Thomas Dodd.

HONORING OUR ARMED FORCES

TRIBUTE TO SPECIALIST SETH GARCEAU

Mr. GRASSLEY. Mr. President, today I rise in remembrance of a fellow Iowan who has fallen in service to his country in Iraq. Specialist Seth Garceau died on the 4th of March after being seriously injured by a roadside explosive on the 27th of February. A member of the Iowa Army National Guard Company A, 224th Engineer Battalion, Specialist Garceau is survived by a mother, Lori, a father, Rick, and a sister, Tess.

Seth Garceau grew up in Oelwein, IA, and enlisted in the Iowa Army National Guard in 2000 while he was still in high school. Seth graduated from Oelwein High School in 2001 and was mobilized for Operation Iraqi Freedom in 2004. Officials announced on the 5th of February that Specialist Garceau will be promoted posthumously to the rank of Sergeant.

Former President Calvin Coolidge once said, ''No person was ever honored for what he received. Honor has been the reward for what he gave.'' Seth Garceau has given his life, that greatest of gifts, and for that, we shall forever honor him. I offer my most sincere sympathy to his family and friends who have felt this loss most deeply. May we always remember Seth with respect and admiration. For his life and the sacrifice he made, he deserves no less.

RULES OF PROCEDURE—COMMERCE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, the Committee on Commerce, Science, and Transportation has adopted rules governing its procedures for the 109th Congress. Pursuant to Rules XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator INOUYE, I ask unanimous consent that a copy of the Committee Rules be printed in the RECORD.

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

RULES OF THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

I. MEETINGS OF THE COMMITTEE

1. The regular meeting dates of the Committee shall be the first and third Tuesdays of each month. Additional meetings may be called by the Chairman as he may deem necessary or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. Meetings of the Committee, or any Subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any Subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any Subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(F) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

3. Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee, at least 24 hours in advance of the hearing, a written statement of his testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

4. Field hearings of the full Committee, and any Subcommittee thereof, shall be scheduled only when authorized by the Chairman and ranking minority member of the full Committee.

II. QUORUMS

1. A majority of members which shall include at least one minority member shall constitute a quorum for official action of the Committee when reporting a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

2. Eight members shall constitute a quorum for the transaction of all business as may be considered by the Committee, except for the reporting of a bill, resolution, or nomination. Proxies shall not be counted in making a quorum.

3. For the purpose of taking sworn testimony a quorum of the Committee and each Subcommittee thereof, now or hereafter appointed, shall consist of one Senator.

III. PROXIES

When a record vote is taken in the Committee on any bill, resolution, amendment, or any other question, a majority of the members being present, a member who is unable to attend the meeting may submit his or her vote by proxy, in writing or by telephone, or through personal instructions.

IV. BROADCASTING OF HEARINGS

Public hearings of the full Committee, or any Subcommittee thereof, shall be televised or broadcast only when authorized by the Chairman and the ranking minority member of the full Committee.

V. SUBCOMMITTEES

1. Any member of the Committee may sit with any Subcommittee during its hearings

or any other meeting but shall not have the authority to vote on any matter before the Subcommittee unless he or she is a Member of such Subcommittee.

2. Subcommittees shall be considered de novo whenever there is a change in the chairmanship, and seniority on the particular Subcommittee shall not necessarily apply.

VI. CONSIDERATION OF BILLS AND RESOLUTIONS

It shall not be in order during a meeting of the Committee to move to proceed to the consideration of any bill or resolution unless the bill or resolution has been filed with the Clerk of the Committee not less than 48 hours in advance of the Committee meeting, in as many copies as the Chairman of the Committee prescribes. This rule may be waived with the concurrence of the Chairman and the ranking minority member of the full Committee.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last week, a man pleaded guilty to aggravated manslaughter for killing a 15-year-old girl at a bus stop. Sakia Gunn, the victim, and four other girls were standing outside a bus stop when the assailant approached the girls with an invitation to a party. The girls responded that they were lesbians and were not interested in going. The assailant began making homophobic insults at the girls and stabbed Sakia Gunn.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ACCOUNTABILITY FOR THE ABUSE OF FOREIGN DETAINEES

Mr. LEAHY. Mr. President, with this new session of Congress and the President's new term we are presented with new opportunities for change. Congress and the President have embraced these opportunities on many issues—new cabinet officials have been confirmed and a renewed effort is underway by the administration to repair strained international relationships. Unfortunately, on one important front there has been no change: The administration continues to stonewall on the prisoner abuse scandal and Congress continues to abdicate its oversight responsibility on this issue.

Ignoring this problem will not make it go away. Even without a comprehensive, independent investigation into the abuse of detainees, we continue to learn more about this scandal from press reports and the court-ordered release of Government documents in response to Freedom of Information Act (FOIA) litigation.

The latest set of documents made public through the FOIA case reveal not only more incidents of abuse, but also indicate that soldiers in Afghanistan destroyed evidence of detainee mistreatment. One file documents the Army's investigation into the discovery of a compact disk during an office clean-up in Afghanistan in July 2004. The disk contained photos of U.S. soldiers pointing their handguns and rifles at the heads of bound and hooded detainees. Many of the soldiers questioned about these photos said they were ''joking around'' and that they wanted to have some good pictures to show their friends back home. If the roles were reversed and it was American POWs being used as photo props with weapons pointed at their heads, we would be rightly outraged by this conduct.

While the photos on this disk are disturbing in their own right, the circumstances surrounding this investigation are even more troubling. Unlike the photos from Abu Ghraib, these photos were not investigated because of an American soldier, in an act of conscious, gave the photos to a superior officer. These new photos were discovered by accident. The subsequent investigation into the photos revealed that soldiers in the unit were told by their superiors to delete similar photos of abuse to prevent their disclosure.

New details have also emerged about one of the infamous Abu Ghraib photos. Many will remember the photo of Manadel al-Jimadi's corpse packed in ice with Specialist Charles Graner posing over the body and giving the ''thumbs-up'' sign. We have known for months that this was a homicide, but a recent news report provides additional details about al-Jimadi's death. Al-Jimadi, one of the CIA's ghost detainees at Abu Ghraib, was secretly held at the prison. The International Committee of the Red Cross was denied access to him in violation of the Geneva Conventions. Now, press reports indicate that he died in a position known as ''Palestinian hanging.'' This barbaric practice entails cuffing the detainee's hands behind his back and suspending him from the wrists.

President Bush condemned Saddam Hussein for similar practices; the President should be as outraged when these acts are committed by American personnel.

Meanwhile, the media continues to reveal details about the administration's use of extraordinary rendition to transfer terrorism suspects in U.S. custody to the custody of countries where they are likely to be tortured. A recent article in The New Yorker, titled ''Outsourcing Torture,'' provides disturbing details about how the administration embraced the use of renditions after the attacks on September 11. The article cites three instances where the U.S. transferred suspected militants from Afghanistan to Uzbekistan. Although the fate of these men is not known, Uzbekistan is known to use interrogation methods such as partially boiling a detainee's hand or arm.

The State Department recently released its annual human rights report. The report criticized several countries for employing interrogation techniques that the State Department considered to be torture, yet are similar to techniques approved in 2002 by Secretary Rumsfeld. How can we criticize these countries for using techniques that our own Defense Secretary approved? How can our State Department denounce countries for engaging in torture while the CIA secretly transfers detainees to the very same countries? President Bush said that U.S. personnel do not engage in torture, but transferring detainees to other countries where they will be tortured does not absolve our government of responsibility. By outsourcing torture to these countries, we diminish our own values as a nation and lose our credibility as an advocate of human rights around the world.

Even without further government action, this scandal is not going to go away. It is time for us to lead the investigation, rather than wait to read about the latest discovery of abuse in the newspaper. As I have said before, there needs to be a thorough, independent investigation of the actions of those involved, from the people who committed abuses to the officials who set these policies in motion. The investigations completed thus far provide additional insight into how the prison abuses occurred, but their narrow mandates prevented them from addressing critical issues.

For example, an executive summary of the long-expected report on interrogation policy by Admiral Albert T. Church was released today. The full report, which is classified, reportedly criticizes the Pentagon for a failure of oversight, yet finds no direct evidence that high level officials ordered the mistreatment of detainees. The executive summary contains only a brief reference to the role of contractors in interrogations, and affirms that numerous contracts have been awarded in an ad hoc fashion and without central coordination. The role of contractors is an area sorely in need of a comprehensive investigation.

Similarly, the unclassified summary leaves many questions unanswered about Department of Defense (DOD) interaction with the CIA. It confirms that approximately 30 detainees were kept ''off the books'' in Iraq. The summary admits that DOD assisted the intelligence agencies with detainee transfers and supported interrogations by ''other government agencies''—which is government-speak for the CIA—at DOD facilities. What is missing from the Church report, however, is

a full exploration of the role of the CIA in detention, rendition, and interrogation. The Agency apparently cooperated with the Church investigation, but provided information on activities only in Iraq, and not on any of the other nations or facilities where the CIA is holding and interrogating detainees.

A very important piece of information came out of today's hearing on the Church report, however. In his testimony before the Armed Services Committee, Admiral Church was asked by Senator KENNEDY about unclassified paragraphs of the full report that discuss early meetings of the DOD working group on interrogations. That working group produced a memo that tracked very closely the infamous August 2002 Justice Department torture memo. The Justice memo claimed that for an action to rise to the level of torture it must result in pain equivalent to the type associated with organ failure or even death.

Apparently, the working group was briefed by Justice Department lawyers who presented the Justice memo's legal analysis as controlling. According to Senator KENNEDY's exchange with Admiral Church, members of the working group protested. They believed that interrogation policy should follow the Geneva Conventions. Admiral Church confirmed that the working group was overruled by the Pentagon's Office of General Counsel, which insisted on using the torture memo as the legal foundation for interrogation techniques. Specifically, Admiral Church admitted, the working group was overruled by William J. Haynes, General Counsel of the Department of Defense, whom the President has nominated to a lifetime appointment as a Federal Circuit Court judge. And still, given all of this information, the Pentagon claims that abuses did not stem from policies generated from the highest levels of this administration.

Only a truly independent entity can comprehensively investigate the policy decisions that were made at the top and the abuses that followed in the field. There will always be scandals and tragedies in a nation's history. What makes America unique is that we do not hide from these issues; we investigate them, learn from our mistakes, and make sure they do not happen again. I have no doubt that an independent investigation into the abuse of detainees will be painful, but it is also a necessary step to moving forward.

44TH ANNIVERSARY OF THE PEACE CORPS

Mr. OBAMA. Mr. President, as the Peace Corps celebrates its 44th anniversary this month, I would like to take this opportunity to commend its many wonderful volunteers, past and present, and the remarkable work they do. I am very pleased to report that three universities in Illinois—the University of Illinois at Champaign-Urbana, Northwestern University, and the University of Chicago—are three of the top Peace Corps-volunteer producing colleges and universities in the country. There are currently 295 volunteers from Illinois working in countries around the world, and I am tremendously proud of the service provided by each and every one of them.

The work of the Peace Corps in promoting mutual understanding between our country and the rest of the world has never been more relevant than it is today. The Peace Corps began in 1961 under President John F. Kennedy as a unique experiment in humanitarian service and cultural exchange and has grown to become one of the most widely respected American institutions in the world. Since the founding of the Peace Corps, over 178,000 volunteers have served in 138 countries.

Peace Corps volunteers share their knowledge, skills, and enthusiasm by serving as health educators, youth and agricultural workers, teachers, and business advisors. Of the 7,700 volunteers currently serving, over 3,100 are working on HIV/AIDS education and prevention projects, and I commend them on their critically important work on this global crisis.

I also would like to honor past volunteers who have helped to build this wonderful program into what it is today, who have empowered and given voice to individuals and communities in developing countries around the world. Individually and collectively, Peace Corps volunteers represent the very best of our great country, and I am proud to salute them on their 44th anniversary.

CONCURRENT RESOLUTION ON DEATHS OF WOMEN IN THE STATE OF CHIHUAHUA, MEXICO

Mr. BINGAMAN. Mr. President, I rise today to speak on behalf of a concurrent resolution I submitted yesterday which conveys the deepest sympathy of the Senate to the families of the young women who have been tragically murdered in Ciudad Juarez and throughout the state of Chihuahua, and urges the Governments of Mexico and the United States to work together to address this issue. This is an issue that has not only affected the people of Mexico but has long troubled the border communities across the entire Southwest region.

Last Congress, I submitted a similar version of this resolution in conjunction with Representative HILDA SOLIS in the House of Representatives, and I am pleased that Senators CORNYN, CORZINE, DURBIN, ENSIGN, FEINGOLD, FEINSTEIN, LANDRIEU, LEAHY, LEVIN, MIKULSKI, and MURRAY, have joined me in resubmitting this resolution.

This last Tuesday was International Womens' Day, and I believe that as we mark the achievements women have made, we must also recognize the challenges that remain. Stopping violence against women is one such challenge that we face. It is far too prevalent in our country and around the world, and we must do all we can to bring it to an end.

Since 1993, bodies of young women began appearing in the deserts outside the city of Juarez, Mexico, marking the beginning of a horrendous epidemic that has plagued the United States-Mexico border region for more than 10 years. Since then, more than 370 women have been killed. Many of the young women were abducted in broad daylight in well-populated areas, held captive for several days, and subjected to physical violence, humiliation, and sexual torture before having their mutilated bodies discovered days, or sometimes years, later in deserted areas. Since 2004, at least 30 women have been killed in the city of Juarez in Chihuahua.

On May 28, 2004, 14-year-old Luisa Rocio Chavez was found murdered in the state of Chihuahua after disappearing the previous morning on her way home from the store. She had been raped and strangled to death, and her body was found partially clothed. And before that, on April 26, 2004, a 33-year-old factory worker, Teresa Torbellin, was found after being beaten to death and dragged through bushes and desert, eventually being dumped in a deserted area outside the city. Like these deaths, nearly all of the cases remain unsolved. In fact, many of the bodies of victims have yet to be positively identified. One can only imagine how much pain and suffering this has caused the families and friends of these young women. I want to make sure these deaths are never forgotten, and that the Governments on both sides of the border continue to give this issue the attention it so rightly deserves.

Human rights groups have reported that in many cases bodies have been misidentified, evidence contaminated or lost, key witnesses not properly interviewed, and autopsies inadequately performed. And there have been serious allegations of instances of individuals being tortured into confessing to these horrible crimes. In one such case, an American citizen, Cynthia Kiecker, and her husband Ulises Perzabal were accused of killing a young woman and reportedly tortured into confessing. I am pleased that they have since been released.

President Vicente Fox has taken steps to address this issue by setting up the Commission to Prevent and Eradicate Violence Against Women, which is responsible for coordinating federal and state efforts in preventing violence of women in Ciudad Juarez and Chihuahua, and appointing a special prosecutor for punishing those responsible for the murders in Ciuad Juarez. The federal prosecutor, Maria Lopez Urbina, has reviewed over 200 cases and cited 130 Chihuahua public servants for negligence and malfeasance. I am encouraged that the new governor of Chihuahua, Jose Reyes Baeza Terrazass, has indicated a willingness to take steps to resole these murders.

I also want to recognize the efforts of Commissioner Guadalupe Morfin Otero, who has done some good work in investigating the issues surrounding these deaths. The Mexican Federal Government has also established a DNA database to help better identify the victims. While obtaining independent verification of victims' remains an outstanding issue, the creation of this database is a positive step in the right direction.

Although I am pleased that President Fox has taken the initiative on these fronts, I continue to believe that there needs to be a more coordinated effort on the part of the Mexican and U.S. Governments. That is why I have submitted this vitally important resolution. I stand ready to assist in any way I can, and I believe that the U.S. Government should be prepared to do so as well. The U.S. Agency for International Development has begun providing assistance to the state of Chihuahua for judicial reform, and I hope that the Mexican and U.S. Governments can work together on other initiatives as well. This resolution isn't meant to be a condemnation of Mexico. It is meant to express that the U.S. Congress stands with the victims of this violence and is willing to take constructive steps to assist in preventing these murders in the future.

Specicially, this resolution would condemn the abductions and murders of young women in the state of Chihuahua, Mexico, express the sincerest condolences and deepest sympathy of the Senate to the families of the young women, and urge a continued multilateral effort on the part of the Governments of Mexico and the United States to address this issue.

To this end, it would urge the Governments of Mexico and the United States to support steps that would allow families to positively identify the remains of the victims, and encourage the Secretary of States to continue to facilitate U.S. participation in such efforts.

It would also encourage the Secretary of State to urge the Mexican Government to ensure fair and proper judicial proceedings for the individuals accused of these abductions and murders, and to impose appropriate punishment for those individuals found guilty of such crimes. Additionally, it would condemn threats against human rights activists and the use of torture as a means of investigation.

Lastly, this resolution would condemn all senseless acts of violence against women across the world and express the solidarity of the people of the United States with the people of Mexico in the face of these tragic and senseless acts.

This problem can't be ignored. We have the chance to help end the suffering of these innocent families, and I hope the Senate will join me in supporting this resolution.

THE TIBETAN DAY OF COMMEMORATION

Mrs. FEINSTEIN. Mr. President, Today I rise to commemorate the 46th Anniversary of the Tibetan Uprising of 1959.

It is my sincere hope that both the Chinese government and the Tibetan leaders might use this opportunity to reflect on the importance of pursuing a viable, long-term solution that provides the Tibetan people the right to enjoy religious, cultural, and social autonomy as part of the People's Republic of China.

This anniversary marks a sad, but important day in the history of the Tibetan people.

In 1951, two years after the People's Liberation Army first entered Tibet, Chinese government representatives and Tibetan leaders signed what has been called the 17 Point Agreement.

This agreement, among other things, included the promise of Tibetan religious, cultural, and social autonomy, and preserved the institution of the Dalai Lama.

Sadly, the Chinese government failed to uphold these promises and attempted to force ''revolutionary socialist reforms'' upon the Tibet people and leadership. This ultimately culminated in the 1959 Lhasa Uprising which saw tens of thousands of Tibetans killed and forced the Dalai Lama and many others to flee to India.

Today human rights abuses continue against Tibetans wishing to practice their religion or promote their unique cultural and historical identity. Hundreds have been imprisoned in Tibet, and tens of thousands more have had to flee their homeland.

Nevertheless, the Dalai Lama remains steadfast in his desire to find a long-lasting and viable solution that will provide freedom and autonomy for the Tibetan people without pursuing independence.

In a speech today to mark this 46th anniversary, he stated:

> We remain fully committed to the Middle Way Approach of not seeking independence for Tibet and are willing to remain within the People's Republic of China.

He also praised the economic progress and development that has taken place in Tibet over the past 40 years, including the new railroad link that will begin operation this year.

I have personally worked for well over two decades to try and bring both the Chinese government and Tibetan leadership together in a spirit of cooperation and dialogue to overcome the differences that have impeded progress on a solution for Tibet. And after many conversations with the Dalai Lama, I am fully convinced that he is sincere in his promise not to pursue a separate path for Tibet.

To that end, several times over the years I have carried messages from the Dalai Lama to Beijing and communicated regularly with Jiang Zemin and other Chinese officials on the importance of establishing dialogue on the Tibet issue.

I have also been pleased to see that discussions between the Dalai Lama's envoys and Chinese officials have resumed and that a third round of meetings took place last September in Beijing.

It is my hope that both sides will build upon these meetings and that President Hu, with his knowledge and understanding of the Tibetan people, will come to appreciate the international goodwill that would be fostered by his willingness to meet with the Dalai Lama and pursue a reasonable solution to the Tibet issue.

Despite the slow pace of progress over the years, I remain confident that if the Chinese leadership will only sit down with the Dalai Lama and listen openly to his views, that a sustainable solution providing for the preservation of the distinctive identity, religious and cultural heritage for the Tibetan people can be found.

ADDITIONAL STATEMENTS

AMERICAN CULINARY FEDERATION'S SOUTHEASTERN REGIONAL CONFERENCE

● Mr. ALLEN. Mr. President, I am pleased today to recognize a group of Americans who are constantly seeking to improve upon their skills and pursue excellence in their passion and vocation.

Beginning today, chefs, cooks, students and foodservice professionals from Southeastern America will gather in Roanoke, VA for a 4-day conference hosted by the American Culinary Federation's Southwestern Virginia Chapter. The event serves as an invaluable opportunity for these culinarians to share their immense skill and knowledge with others in their profession. It provides a chance for these culinary artists to create new relationships and foster old ones, and for senior and master chefs to inspire the aspiring junior chefs.

The conference will honor a number of individuals for excellence in their trade, with the following distinctions being awarded: chef of the year award, pastry chef of the year award, and student member of the year award. These individuals will then compete at the national conference of the American Culinary Federation to receive the national award in each division.

In addition to the work the American Culinary Federation does to promote the art of cooking and to enhance the dining experience for those who indulge in a meal prepared by these talented individuals, the ACF also works hard to fight childhood hunger across the nation by providing nutrition-based education programs to children in preschool through grade five. Chefs work to increase the awareness of childhood hunger and poverty, and help to train food-relief agencies.

I am pleased that the Southwestern Virginia Chapter of the American Culinary Federation will host such a talented and compassionate group of Americans in the great town of Roanoke. I wish them continued success in their culinary endeavors.●

TRIBUTE TO THE FIRST BAPTIST CHURCH OF KANSAS CITY, MISSOURI, ON ITS 150TH ANNIVERSARY

● Mr. BOND. Mr. President, it is with great pleasure that I congratulate the First Baptist Church of Kansas City, MO, on its 150th anniversary.

The First Baptist Church has had a long and proud history, coinciding with the history of Kansas City. The church was organized on April 21, 1855, by a group of 10 men and women in the small settlement along the Missouri River incorporated as the City of Kansas. The first pastor was the Reverend R.S. Thomas. In 1859 the congregation completed its first building at Eighth and May Streets in downtown Kansas City.

In 1880, a new church building was completed on the southwest corner of Twelfth and Baltimore, later the side of the Hotel Muehlebach. The growth of the congregation and the city dictated relocation of the church in the early 1900s. A new site was chosen at Linwood Boulevard and Park Avenue while a West Side Branch of the church was established at Thirteenth and Broadway to serve the needs of downtown residents. Both buildings were dedicated in 1909. From 1909 and 1942, First Baptist Church ministered in two very different locations. After our country's entry in World War II, changing conditions and needs brought the decision to end the West Side ministry. The property was sold to the Salvation Army.

In 1960, the congregation voted to establish a branch church in the southern part of Kansas City. The new colonial-style church building was completed in 1963 at the northwest corner of Wornall Road and Red Bridge Road. There have since been two additions to the original structure. The First Baptist Church of Kansas City was once again ministering at two locations within the city. In 1982, the Linwood Boulevard building was sold to the Metropolitan Missionary Baptist Church. Since that time, the church's single location has been at Red Bridge and Wornall.

Throughout its 150 years, First Baptist Church of Kansas City, MO, has striven to maintain its concern for and involvement in the entire Kansas City community. Its pastors and members have often assumed leadership positions in civic affairs, especially during a time when Kansas City was fighting to end political corruption within the local government and later when Kansas City worked to bring an end to discrimination in public facilities and housing.

The First Baptist Church of Kansas City has strongly supported the home mission and foreign mission programs of their denomination. Many of their members have served in foreign mission fields, including two who are presently working in Hong Kong. The church has always been involved in ecumenical relationships with other churches, other denominations and other faiths in their community, in our nation, and throughout the world by their membership in the Baptist World Alliance.

I commend the congregation of First Baptist Church of Kansas City on their commitment to maintain high standards of worship, music, and fellowship. I am pleased to join with the Kansas City community and the State of Missouri in congratulating the congregation and wishing them continued growth and success for the next 150 years.●

REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice stating that the Iran emergency declared on March 15, 1995, is to continue in effect beyond March 15, 2005, to the Federal Register for publication. The most recent notice continuing this emergency was published in the Federal Register on March 12, 2004 (69 FR 12051).

The crisis between the United States and Iran constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine Middle East peace, and acquisition of weapons of mass destruction and the means to deliver them, that led to the declaration of a national emergency on March 15, 1995, has not been resolved. These actions and policies are contrary to the interests of the United States in the region and pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to Iran and maintain in force comprehensive sanctions against Iran to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 10, 2005.*

NOTICE—CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN

On March 15, 1995, by Executive Order 12957, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions and policies of the Government of Iran, including its support for international terrorism, efforts to undermine the Middle East peace process, and acquisition of weapons of mass destruction and the means to deliver them. On May 6, 1995, the President issued Executive Order 12959 imposing more comprehensive sanctions to further respond to this threat, and on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

Because the actions and policies of the Government of Iran continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, the national emergency declared on March 15, 1995, must continue in effect beyond March 15, 2005. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran. Because the emergency declared by Executive Order 12957 constitutes an emergency separate from that declared on November 14, 1979, by Executive Order 12170, this renewal is distinct from the emergency renewal of November 2004. This notice shall be published in the Federal Register and transmitted to the Congress.

GEORGE W. BUSH.

THE WHITE HOUSE, *March 10, 2005.*

MESSAGE FROM THE HOUSE

At 2:35 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to 22 U.S.C. 276d, and the order of the House of January 4, 2005, the Speaker appoints the following Members of the House of Representatives to the Canada-United States Interparliamentary Group: Mr. MANZULLO of Illinois, Chairman and Mr. MCCOTTER of Michigan, Vice Chairman.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 570. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end

of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 99. A bill to authorize the Secretary of the Interior to contract with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming (Rept. No. 109–27).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments:

S. 152. A bill to enhance ecosystem protection and the range of outdoor opportunities protected by statute in the Skykomish River valley of the State of Washington by designating certain lower-elevation Federal lands as wilderness, and for other purposes (Rept. No. 109–28).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 176. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska (Rept. No. 109–29).

S. 231. A bill to authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes (Rept. No. 109–30).

S. 232. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to assist in the implementation of fish passage and screening facilities at non-Federal water projects, and for other purposes (Rept. No. 109–31).

S. 244. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming (Rept. No. 109–32).

S. 264. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain projects in the State of Hawaii (Rept. No. 109–33).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with amendments and an amendment to the title:

S. 272. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System (Rept. No. 109–34).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 600. An original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes (Rept. No. 109–35).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Coast Guard nomination of Vincent M. Weber to be Captain.

Coast Guard nominations beginning with John C. Adams and ending with Andrew H. Zuckerman, which nominations were received by the Senate and appeared in the Congressional Record on January 6, 2005.

Coast Guard nominations beginning with Robert M. Keith and ending with Daniel E. Ward, which nominations were received by the Senate and appeared in the Congressional Record on January 31, 2005.

National Oceanic and Atmospheric Administration nominations beginning with James D. Rathbun and ending with Andrew P. Seaman, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 2005.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DAYTON:

S. 587. A bill to amend title 40, United States Code, to require that automobiles and light trucks manufactured after model year 2006 be able to operate on a fuel mixture that is at least 85 percent ethanol, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself and Mr. KYL):

S. 588. A bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; to the Committee on Energy and Natural Resources.

By Mr. CORNYN (for himself and Mr. LEAHY):

S. 589. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on the Judiciary.

By Mr. ENSIGN (for himself and Mr. REID):

S. 590. A bill to designate the facility of the United States Postal Service located at 750 4th Street in Sparks, Nevada, as the ''Mayor Tony Armstrong Memorial Post Office''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. THOMAS (for himself, Mr. CRAIG, Mr. ENZI, Mr. STEVENS, and Mr. BURNS):

S. 591. A bill to limit the acquisition by the United States of land located in a State in which 25 percent or more of the land in that State is owned by the United States; to the Committee on Energy and Natural Resources.

By Mr. THOMAS (for himself, Mr. HAGEL, Mr. ENZI, and Mr. NELSON of Nebraska):

S. 592. A bill to extend the contract for the Glendo Unit of the Missouri River Basin Project in the State of Wyoming; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. BAYH, Mr. BURR, Mr. SANTORUM, Mr. SCHUMER, Mr. DEWINE, Mr. DURBIN, Mrs. DOLE, Mr. BYRD, Ms. MIKULSKI, Mr. GRAHAM, Mr. LIEBERMAN, Mr. PRYOR, Mrs. LINCOLN, Mr. ROCKEFELLER, Mr. BAUCUS, and Mr. LOTT):

S. 593. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Finance.

By Mr. SPECTER:

S. 594. A bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself, Mr. BAUCUS, Mr. SMITH, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 595. A bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

By Mr. THOMAS:

S. 596. A bill to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from wholesale electric competition and restore investor confidence in the electric industry; to the Committee on Energy and Natural Resources.

By Mr. BAYH:

S. 597. A bill for the relief of Fatuka Kaikumba Flake; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 598. A bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing; to the Committee on Indian Affairs.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 599. A bill to provide duty-free treatment for certain tuna; to the Committee on Finance.

By Mr. LUGAR:

S. 600. An original bill to authorize appropriations for the Department of State and international broadcasting activities for fiscal years 2006 and 2007, for the Peace Corps for fiscal years 2006 and 2007, for foreign assistance programs for fiscal years 2006 and 2007, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. CONRAD:

S. 601. A bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. BOND, Mrs. CLINTON, Mr. WARNER, Ms. COLLINS, Mr. KENNEDY, Mr. WYDEN, Mr. SARBANES, Mr. JOHNSON, Mr. NELSON of Florida, Ms. LANDRIEU, Ms. STABENOW, Mrs. LINCOLN, Mr. KERRY, Mr. LAUTENBERG, Mr. DAYTON, Mr. KOHL, Mr. LEAHY, Mr. DURBIN, Mrs. BOXER, Mr. DODD, Mr. TALENT, Mr. LIEBERMAN, Mrs. DOLE, Mr. HAGEL, Mr. LUGAR, Mr. COLEMAN, Mrs. MURRAY, Mr. HARKIN, Ms. CANTWELL, Mr. BAYH, and Mr. ROCKEFELLER):

S. 602. 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; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. Res. 79. A resolution expressing the sense of the Senate in marking the dedication on March 15, 2005, of the expanded museum complex at Yad Vashem, the Holocaust Martyrs and Heroes Remembrance Authority in Israel, in furtherance of Yad Vashem's mission to document the history of the Jewish people during the Holocaust, to preserve the memory and story of each of the victims, impart the legacy of the Holocaust to future generations, and recognize the Righteous Among the Nations; considered and agreed to.

By Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Mr. SARBANES, and Mrs. CLINTON):

S. Res. 80. A resolution honoring the life of Fern Holland and expressing the deepest condolences of the Senate to her family on their loss; considered and agreed to.

By Mr. BURNS (for himself, Mr. THOMAS, and Mr. ENZI):

S. Res. 81. A resolution recognizing the contribution of Chris LeDoux to country music; considered and agreed to.

By Mr. BIDEN (for himself, Mr. CORZINE, Mr. FEINGOLD, Mr. DODD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. OBAMA, and Mrs. BOXER):

S. Con. Res. 17. A concurrent resolution calling on the North Atlantic Treaty Organization to assess the potential effectiveness of and requirements for a NATO-enforced no-fly zone in the Darfur region of Sudan; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 8, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 13

At the request of Mr. AKAKA, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 13, a bill to amend titles 10 and 38, United States Code, to expand and enhance health care, mental health, transition, and disability benefits for veterans, and for other purposes.

S. 32

At the request of Mr. DAYTON, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 32, a bill to enhance the benefits and protections for members of the reserve components of the Armed Forces who are called or ordered to extend active duty, and for other purposes.

S. 132

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 147

At the request of Mr. AKAKA, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 147, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 151

At the request of Mr. PRYOR, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 238

At the request of Mr. HAGEL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 238, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income interest received on loans secured by agricultural real property.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 250

At the request of Mr. ENZI, the names of the Senator from New Hampshire (Mr. GREGG), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Connecticut (Mr. DODD), the Senator from Vermont (Mr. JEFFORDS), the Senator from Washington (Mrs. MURRAY), the Senator from Iowa (Mr. HARKIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from New York (Mrs. CLINTON), the Senator from Rhode Island (Mr. REED), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Alabama (Mr. SESSIONS), the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. THOMAS), the Senator from Georgia (Mr. ISAKSON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 250, a bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act.

At the request of Mr. KENNEDY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 250, supra.

At the request of Mr. TALENT, his name was added as a cosponsor of S. 250, supra.

S. 263

At the request of Mr. AKAKA, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 263, a bill to provide for the protection of paleontological resources on Federal lands, and for other purposes.

S. 268

At the request of Mr. HARKIN, the names of the Senator from Washington (Ms. CANTWELL), the Senator from Minnesota (Mr. DAYTON), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Mississippi (Mr. LOTT), the Senator from Arkansas (Mr. PRYOR) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 268, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 325

At the request of Mr. LEVIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 325, a bill to amend title 23, United States Code, to establish programs to facilitate international and interstate trade.

S. 333

At the request of Mr. SANTORUM, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 352

At the request of Ms. MIKULSKI, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 352, a bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes.

S. 354

At the request of Mr. ENSIGN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 354, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 397

At the request of Mr. CRAIG, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 397, a bill to prohibit civil liability actions from being

brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 399

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 399, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the sale of prescription drugs through the Internet, and for other purposes.

S. 401

At the request of Mr. HARKIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 401, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 403

At the request of Mr. ENSIGN, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 403, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 467

At the request of Mr. DODD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 489

At the request of Mr. ALEXANDER, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 489, a bill to amend chapter 111 of title 28, United States Code, to limit the duration of Federal consent decrees to which State and local governments are a party, and for other purposes.

S. 495

At the request of Mr. CORZINE, the names of the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Nebraska (Mr. NELSON), the Senator from Minnesota (Mr. DAYTON), the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 515

At the request of Mr. BYRD, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Montana (Mr. BURNS) were added as cosponsors of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 516

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 516, a bill to advance and strengthen democracy globally through peaceful means and to assist foreign countries to implement democratic forms of government, to strengthen respect for individual freedom, religious freedom, and human rights in foreign countries through increased United States advocacy, to strengthen alliances of democratic countries, to increase funding for programs of nongovernmental organizations, individuals, and private groups that promote democracy, and for other purposes.

S. 528

At the request of Mr. HARKIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 528, a bill to authorize the Secretary of Health and Human Services to provide grants to States to conduct demonstration projects that are designed to enable medicaid-eligible individuals to receive support for appropriate and necessary long-term services in the settings of their choice.

S. 586

At the request of Mr. BOND, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 586, a bill to amend the Internal Revenue Code of 1986 to provide for the proper tax treatment of certain disaster mitigation payments.

S. RES. 69

At the request of Mr. LUGAR, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 69, a resolution expressing the sense of the Senate about the actions of Russia regarding Georgia and Moldova.

S. RES. 71

At the request of Mr. CRAIG, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Res. 71, a resolution designating the week beginning March 13, 2005 as ''National Safe Place Week''.

AMENDMENT NO. 70

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 70 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

AMENDMENT NO. 112

At the request of Mr. INOUYE, his name was added as a cosponsor of amendment No. 112 proposed to S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. KYL):

S. 588. A bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; to the Committee on Energy and Natural Resources.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senator KYL in introducing the Arizona Trail Feasibility Study Act. This bill would authorize the Secretaries of Agriculture and Interior to conduct a joint study to determine the feasibility of designating the Arizona Trail as a National Scenic or National Historic Trail. A companion bill is being introduced today in the House of Representatives by Representative KOLBE and rest of the Arizona delegation.

Since 1968, when the National Trails System Act was established, Congress has designated 20 national trails. This legislation is the first step in the process of national trail designation for the Arizona Trail. If the study concludes that designating the Arizona Trail as a part of the national trail system if feasible, subsequent legislation can be introduced to designate the Arizona Trail as either a National Scenic Trail or National Historic Trail.

The Arizona Trail is a beautifully diverse stretch of public lands, mountains, canyons, deserts, forests, historic sites, and communities. The Trail begins at the Coronado National Memorial on the U.S.-Mexico border and ends in the Bureau of Land Management's Arizona Strip District on the Utah border. In between these two points, the Trail winds through some of the most rugged, spectacular scenery in the Western United States.

For the past 10 years, over 16 Federal, State, and local agencies, as well as community and business organizations, have worked to form a partnership to create, develop, and manage the Arizona Trail. Designating the Arizona Trail as a national trail would help streamline the management of the Trail to ensure that this pristine stretch of diverse land is preserved for future generations to enjoy.

The corridor for the Arizona Trail encompasses the wide range of ecological diversity in the State, and incorporates a host of existing trails into one continuous trail. The Arizona Trail extends through seven ecological life zones including such legendary landmarks as the Sonoran Desert and the Grand Canyon. It connects the unique lowland desert flora and fauna in Saguaro National Park and the pine-covered San Francisco Peaks, Arizona's highest mountains at 12,633 feet in elevation. In fact, the Trail route is so topographically diverse that a person can hike from the Sonoran Desert to Alpine forests in one day. The Trail also takes travelers through ranching, mining, agricultural, and developed urban areas, as well as remote and pristine wildlands.

With over 700 miles of the 800-mile trail already completed, the Arizona

Trail is a boon to recreationists. The Arizona State Parks recently released data showing that two-thirds of Arizonans consider themselves trail users. Millions of visitors also use Arizona's trails each year. In one of the fastest-growing states in the U.S., the designation of the Arizona Trail as a National Scenic or National Historic Trail would ensure the preservation of a corridor of open space for hikers, mountain bicyclists, cross-country skiers, snowshoers, eco-tourists, equestrians, and joggers.

I commend the Arizona Trail Association for taking the lead in building a coalition of partners to bring the Arizona Trail from its inception to a nearly completed, multiple-use, non-motorized, long-distance trail. Trail enthusiasts look forward to the completion of the Arizona Trail. Its designation as a national trail would help to protect the natural, cultural, and historic resources it contains for the public to use and enjoy.

I urge my colleagues to support the passage of this legislation.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN in introducing the Arizona Trail Feasibility Study Act. This bill would authorize the Secretaries of Agriculture and the Interior to conduct a joint study to determine the feasibility and desirability of designating the Arizona Trail as a National Scenic or Historic Trail. A companion bill is being introduced today in the House of Representatives by Representative KOLBE on behalf of the entire Arizona delegation.

In 1968, Congress established the National Trails System to promote the preservation of historical resources and outdoor areas. National scenic and national historic trails may be designated only by an act of Congress. The first step toward national trail designation is the feasibility study process, which this legislation authorizes. When a study recommends a trail for designation, subsequent legislation will be introduced to bring it into the National Trails System.

The Arizona Trail is highly deserving of consideration for national designation. The trail is a roller coaster ride through the wide range of ecological diversity in the State. The Trail corridor begins at the Coronado National Memorial on the U.S. Mexico Border, and winds some 800 miles, ending on the Bureau of Land Management's Arizona Strip District on the Utah Border. As it connects these two points, it invites recreationists to explore the State's most renowned mountains, canyons, deserts and forests, including the Grand Canyon and the Sonora Desert. This trail is unique in that it was developed to maximize the incorporation of already existing public trails into one continuous trail, to showcase some of the most spectacular scenery in the West.

The trail is a partnership of over 16 Federal, State and local agencies, as well as numerous community and business organizations and countless volunteers, to develop and sustain it as a recreational resource for future generations. Authorizing this study and ultimately designating the Arizona Trail as a national trail will help streamline its management, boost tourism and recreation, and preserve a magnificent natural, cultural, and historical experience of the American West.

By Mr. CORNYN (for himself and Mr. LEAHY):

S. 589. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on the Judiciary.

Mr. CORNYN. Mr. President, on February 16, shortly before the President's Day recess in February, the Senator from Vermont and I introduced the OPEN Government Act of 2005—bipartisan legislation to promote accountability, accessibility, and openness in government, principally by strengthening and enhancing the Federal law commonly known as the Freedom of Information Act.

When I served as Attorney General of Texas, it was my responsibility to enforce Texas's open government laws. I am pleased to report that Texas is known for having one of the strongest set of open government laws in our Nation. And ever since that experience, I have long believed that our federal government could use ''a little Texas sunshine.'' I am thus especially enthusiastic about the OPEN Government Act, because that legislation attempts to incorporate some of the most important principles and elements of Texas law into the federal Freedom of Information Act.

Today, I am pleased to join the Senator from Vermont again, to commence another bipartisan effort to reinforce our national commitment to freedom of information and openness in government. Indeed, this is an especially appropriate time to promote this important cause, because starting this Sunday, America will observe the first-ever national Sunshine Week—a celebration of our nation's founding principles and commitment to freedom of information and openness in government. It is also long past due. It has been nearly a decade since Congress has approved major reforms to the Freedom of Information Act. Moreover, a Senate Judiciary subcommittee hearing that the Senator from Vermont and I will lead next Tuesday morning to examine our open government laws will be the first such hearing since 1992.

The Faster FOIA Act of 2005 would establish an advisory Commission on Freedom of Information Act Processing Delays. The Commission would be charged with reporting to Congress and the President its recommendations for steps that should be taken to reduce delays in the administration of the Freedom of Information Act.

The Commission would be comprised of 16 members. Twelve of them would be appointed by members of Congress—three by the chairman of the Senate Judiciary Committee, three by the chairman of the House Government Reform Committee, and three each by the ranking minority member of the two committees. These four members of Congress would each be required to appoint at least one member to the Commission with experience submitting FOIA requests on behalf of nonprofit research or educational organizations or news media organizations, and at least one member with experience in academic research in the fields of library science, information management, or public access to Government information. The remaining four positions on the Commission would be held by designees of the Attorney General, the Director of the Office of Management and Budget, the Archivist of the United States, and the Comptroller General.

The Commission would be responsible for producing a study to identify methods to reduce delays in the processing of FOIA requests and to ensure the efficient and equitable administration of FOIA throughout the Federal Government. The Commission would also be charged with examining whether the system for charging fees and granting fee waivers under FOIA should be reformed in order to reduce delays in processing fee requests. The report would be due no later than one year after the date of enactment of this Act, and would include recommendations for legislative and administrative action to enhance FOIA performance. The Commission would expire thirty days after the submission of the report.

The Faster FOIA Act is important legislation to strengthen openness in our Federal Government, and I am pleased to join with the Senator from Vermont once again in furtherance of this cause.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 589

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

SECTION 1. COMMISSION ON FREEDOM OF INFORMATION ACT PROCESSING DELAYS.

(a) SHORT TITLE.—This Act may be cited as the ''Faster FOIA Act of 2005''.

(b) ESTABLISHMENT.—There is established the Commission on Freedom of Information Act Processing Delays (in this Act referred to as the ''Commission'') for the purpose of conducting a study relating to methods to help reduce delays in processing requests submitted to Federal agencies under section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act'').

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 16 members of whom—

(A) 3 shall be appointed by the chairman of the Committee on the Judiciary of the Senate;

(B) 3 shall be appointed by the ranking member of the Committee on the Judiciary of the Senate;

(C) 3 shall be appointed by the chairman of the Committee on Government Reform of the House of Representatives;

(D) 3 shall be appointed by the ranking member of the Committee on Government Reform of the House of Representatives;

(E) 1 shall be appointed by the Attorney General of the United States;

(F) 1 shall be appointed by the Director of the Office of Management and Budget;

(G) 1 shall be appointed by the Archivist of the United States; and

(H) 1 shall be appointed by the Comptroller General of the United States.

(2) QUALIFICATIONS OF CONGRESSIONAL APPOINTEES.—Of the 3 appointees under each of subparagraphs (A), (B), (C), and (D) of paragraph (1)—

(A) at least 1 shall have experience in submitting requests under section 552 of title 5, United States Code, to Federal agencies, such as on behalf of nonprofit research or educational organizations or news media organizations; and

(B) at least 1 shall have experience in academic research in the fields of library science, information management, or public access to Government information.

(d) STUDY.—The Commission shall conduct a study to—

(1) identify methods that—

(A) will help reduce delays in the processing of requests submitted to Federal agencies under section 552 of title 5, United States Code; and

(B) ensure the efficient and equitable administration of that section throughout the Federal Government; and

(2) examine whether the system for charging fees and granting waivers of fees under section 552 of title 5, United States Code, needs to be reformed in order to reduce delays in processing requests.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to Congress and the President containing the results of the study under this section, which shall include—

(1) a description of the methods identified by the study;

(2) the conclusions and recommendations of the Commission regarding—

(A) each method identified; and

(B) the charging of fees and granting of waivers of fees; and

(3) recommendations for legislative or administrative actions to implement the conclusions of the Commission.

(f) STAFF AND ADMINISTRATIVE SUPPORT SERVICES.—The Comptroller General of the United States shall provide to the Commission such staff and administrative support services, including research assistance at the request of the Commission, as necessary for the Commission to perform its functions efficiently and in accordance with this section.

(g) INFORMATION.—To the extent permitted by law, the heads of executive agencies, the Government Accountability Office, and the Congressional Research Service shall provide to the Commission such information as the Commission may require to carry out its functions.

(h) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation for services performed for the Commission.

(i) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(k) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (e).

Mr. LEAHY. Mr. President, I am pleased to join my colleague from Texas, Senator JOHN CORNYN, in introducing what is our second cooperative action in this Congress to improve the implementation of the Freedom of Information Act, or FOIA. This bill, called the ''Faster FOIA Act of 2005,'' responds to commonly voiced concerns of FOIA requestors over agency delay in processing requests.

I want to express my appreciation to all of the FOIA officers and other Federal employees who work hard to process FOIA requests quickly and efficiently. I know that many simple requests are filled within a few days, and I understand that complex requests dealing with national security issues can take time for declassification, redaction, or release, as appropriate.

There are, nonetheless, significant delays at many agencies. In 2003, a nongovernmental organization, the National Security Archive, looked into just how long some FOIA requests are left unfulfilled. The group found that the oldest requests dated back to the late 1980s, before the collapse of the Soviet Union. The oldest of these was a request to the FBI for information on the Bureau's activities at the University of California. First filed in November 1987, this request was partially fulfilled in 1996 after extensive litigation. According to the National Security Archive, the documents that were released revealed ''unlawful FBI intelligence activities and the efforts to cover up such conduct.'' After a 2002 article in the San Francisco Chronicle, and inquiries from Senator FEINSTEIN, the Bureau acknowledged that there were at least 17,000 pages of records that still had not been produced. Since then, some data has been released, but the requestor recently told me that he believes more than 15,000 pages remain outstanding.

This is an extreme case, but delays are commonplace. Sometimes slowdowns are caused by poorly managed or decentralized data systems that result in an agency not knowing what documents are located where. Other times, components within a single agency do not effectively communicate with one another, so that no one can say whether a request has been filled or not. Finally, we have heard anecdotal evidence of certain agencies engaging in protracted disputes over fee waivers sought by FOIA requestors. I have worked closely with the Government Accountability Office over the past few years to obtain detailed analysis of how fees are collected and how fee waiver requests are processed. The analysts at GAO have looked long and hard at these issues. I am grateful for their efforts and look forward to the results of their study later this year.

One of the problems faced by GAO, and anyone else who has looked into agency delay, is the lack of comprehensive reporting data. We address this problem in our companion bill, S.94, the Open Government Act, by calling for more detailed reporting from agencies on FOIA processing.

These issues deserve a closer look in the short term, however. In this bill, we propose to establish a commission to review agency delay and to make recommendations for reducing impediments to the efficient processing of requests. The Commission would also examine whether the system for charging fees and granting waivers should be modified.

The Commission would be made up of government and non-governmental representatives with a broad range of experience in both submitting and handling FOIA requests, in information science, and in the development of government information policy.

I understand that many requests are complex and that the resources devoted to agency FOIA processing are often lacking. Our companion bill, S. 394, the Open Government Act, addresses this issue by establishing a FOIA ombudsman requiring the Office of Personnel Management to examine how FOIA can be better implemented at the agency level. If the Commission finds that limited resources are a significant factor in slowing down the fulfillment of requests, then Congress should address the issue by increasing funding levels for FOIA processing.

I want to thank the Senator from Texas for his diligent work and flexibility in crafting a Commission structure that is balanced and fair, and that will bring extraordinary expertise to solving these nettlesome problems. I urge all of our colleagues to support the Faster FOIA Act, which has the potential to help agencies and requestors alike in the service of open government.

By Ms. COLLINS (for herself, Mr. BAYH, Mr. BURR, Mr. SANTORUM, Mr. SCHUMER, Mr. DEWINE, Mr. DURBIN, Mrs. DOLE, Mr. BYRD, Ms. MIKULSKI, Mr. GRAHAM, Mr. LIEBERMAN, Mr. PRYOR, Mrs. LINCOLN, Mr. ROCKEFELLER, Mr. BAUCUS, and Mr. LOTT):

S. 593. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Finance.

Ms. COLLINS. Mr. President, our Nation's manufacturers and their employees can compete against the best in the world, but they cannot compete against nations that provide huge subsidies and other unfair advantages to their producers. I hear from manufacturers in my State time and time again whose efforts to compete successfully in the global economy simply cannot overcome the practices of illegal pricing and subsidies of nations such as

China. The results of these unfair practices are lost jobs, shuttered factories, and decimated communities.

Consider this one example. The American residential wood furniture industry has experienced devastating losses due to surges of unfairly priced furniture imports from China. According to the U.S. Bureau of Labor, 34,700 jobs, or 28 percent of the workforce, have been lost in the U.S. furniture industry since 2000. One furniture manufacturer in Maine, Moosehead Manufacturing, was forced to eliminate a quarter of its employees due to the unfair market conditions it faces.

Unfairly priced imports from China are a leading cause in these job losses. China's wooden bedroom furniture exports to the U.S., which amounted to just $169 million in 1999, reached an estimated $1.2 billion in 2003. By subsidizing investments in furniture manufacturing facilities, China is exploiting the U.S. market to the benefit of its producers and putting our employees at an unfair advantage.

This is why I am introducing the ''Stopping Overseas Subsidies Act,'' a bill I introduced in the 108th Congress. I am pleased to be joined by my good friend and colleague from Indiana, Senator BAYH, who has worked closely with me on this legislation. This bill revises current trade remedy laws to ensure that U.S. countervailing duty laws apply to imports from non-market economies, such as China.

Our Nation's trade remedy laws are intended to give American industries and their employees relief from the effects of illegal trade practices. Unfortunately, some countries in the world choose to cheat instead of compete fairly. In these cases, U.S. industries can file petitions under U.S. trade remedy laws for relief. Under current Commerce Department practice, however, U.S. industries competing with these unfairly advantaged foreign producers can file an anti-subsidy petitions against any market economy—such as Canada or Chile—but not against a non-market economy such as China. As a result, those countries, such as China, that subsidize their industries the most heavily and cause the most injury to U.S. industries and workers are exempt from the reach of American anti-subsidy laws.

It is time that this was changed. It is simply not fair to prevent U.S. industries from seeking redress from these unfair trade practices because our trade remedy laws are outdated.

Over the past two decades, there have been significant economic changes in many of the countries classified as non-market economies. This is particularly true in China, one of our largest trading partners and the country with which the United States currently runs its largest trade deficit.

Beginning in the early 1980's and continuing today, China has undertaken major economic reforms. Today, China's economy is not completely state-controlled. Government price controls on a wide range of products have been eliminated. Many enterprises and even entire industries have been allowed to operate and compete in an economic system that has elements of a free market. And, of course, China has taken steps toward fully integrating into the global trading system by joining the World Trade Organization and by working toward the establishment of a modern commercial, financial, legal, and regulatory infrastructure.

The problem is not China's economic liberalization and modernization. The problem is this: now that China has the capacity to be a key international economic player, the country has repeatedly refused to comply with standard international trading rules and practices. And these violations include the use of subsidies and other economic incentives that are designed to give its producers an unfair competitive advantage.

Perhaps the most glaring subsidy comes in the form of currency manipulation. By keeping the Chinese yuan pegged to the U.S. dollar at artificially low levels, the Chinese undervalue the prices of their exports. Not only does this practice provide their producers with a price advantage, but also it violates International Monetary Fund and WTO rules. The Chinese government also reimburses many enterprises for their operating losses and provides loans to uncreditworthy companies.

Currently, U.S. industries have no direct recourse to combat these unfair practices. They instead must rely upon government-to-government negotiations or on the dispute settlement processes of international organizations such as the WTO. While these channels might eventually lead to relief, it usually takes years to see results—and by that time, that industry could already be decimated.

Unfair market conditions cannot continue to cause our manufacturers to hemorrhage jobs. No state understands this more than my home state of Maine. According to a recent study by the National Association of Manufacturers, on a percentage basis, Maine lost more manufacturing jobs in the previous three years than any other state. This is why organizations such as the Maine Forest Products Council and the Maine Wood Products Association have strongly endorsed my proposal.

The Stopping Overseas Subsidies bill is a bipartisan, bicameral bill that has a broad range of support across many industries and geographical areas. A companion bill is being introduced today in the House by Representatives Phil English of Pennsylvania and Artur Davis of Alabama. Last year, the Senate bill had eighteen cosponsors.

I am proud that over twenty organizations and a number of private companies, representing a range of industries, have endorsed this bill. Some of these organizations include: The American Forest & Paper Association, the National Council of Textile Organizations, the Printing Industries of America, the Steel Manufacturers Association, and the Catfish Farmers of America. Of particular note, the National Association of Manufacturers has endorsed this bill and has listed it as one of its top trade agenda items in 2005.

In addition, the United States Economic and Security Review Commission, a bipartisan organization established by Congress in 2000 to provide recommendations to Congress on the relationship between the United States and China, has endorsed the goals of this bill. In its annual report to Congress in June 2004, the Commission stated, ''U.S. policy currently prevents application of countervailing duty laws to nonmarket economy countries such as China. This limits the ability of the United States to combat China's extensive use of subsidies that give Chinese companies an unfair competitive advantage. The Commission recommends that Congress urge the Department of Commerce to make countervailing duty laws application to nonmarket economies. If Commerce does not do so, Congress should pass legislation to achieve the same effect.''

U.S. industries don't want protection—they want fair competition. Illegal subsidies distort fair competition, regardless of the economic system in which they are used. Our legislation simply levels the playing field by allowing anti-subsidy petitions to be brought against non-market economies in addition to market economies.

Countries such as China want to have all the benefits of engaging in international trading institutions and systems and continue to cheat on the system with no penalties. It is time these countries were held to the same standards as other countries around the world. I ask you to join me in supporting the SOS bill to ensure that all countries are held accountable for their trade practices.

By Mr. SPECTER:

S. 594. A bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, yesterday during consideration of the Bankruptcy Reform Act of 2005, I offered an amendment regarding a serious matter involving the guaranteed health benefits of retired coal miners and their families. Unfortunately due to an objection to the unanimous consent request for consideration of my amendment, it was not considered. Therefore, to continue my efforts on behalf of our Nation's coal miners, I have elected today to introduce the Retired Coal Miner Health Benefits Preservation Act.

This legislation would reaffirm the commitment stipulated in the Coal Act of 1992, which guaranteed health benefits to retired coal miners and their families and would clarify the lack of authority of the bankruptcy court to

modify or terminate statutory obligations required under Section 9711 of the Coal Act. This legislation is a direct response to a recent bankruptcy court proceeding in which the court determined it had the authority under Section 1114 of the Bankruptcy Code to modify the level of benefits required to be provided under Section 9711 of the Coal Act.

The Coal Act of 1992 mandated coal operators to fulfill their promise to provide their employees and families health benefits and those obligations could not be modified. As an original cosponsor to this legislation, I am intimately aware of its effect on the 14,000 retired coal miners and their dependents in Pennsylvania. Nationally, this Act effects over 60,000 individuals including every State except for Hawaii. These health benefits form a central underpinning for the medical care structure of the coal field communities. The promise of the Coal Act applied to a fixed pool of coal miners that was closed as of 1994.

Additionally, I want to note that there may be some speculation raised by my colleagues in reference to the recent bankruptcy of Horizon Natural Resources. In this particular bankruptcy proceeding, the court concluded that Section 1114 trumped the Coal Act, which is simply not the case. This or other statutory obligations cannot be undermined by the bankruptcy court. Congress intended that Section 1114 be a statutory obligation and not a contractual obligation. Therefore, this egregious court decision unfortunately trumps the true intent of the Coal Act.

Finally, I am aware that my colleague, Senator ROCKEFELLER, offered legislation in the 108th Congress to address this issue and I commend him for it. Today, I am continuing his prodigious work by introducing this legislation which reinforces what Congress intended, which was not to obstruct the statutory requirements of the Coal Act. I urge my colleagues to strongly support this legislation.

By Mr. SANTORUM (for himself, Mr. BAUCUS, Mr. SMITH, Mr. ROCKEFELLER, and Mr. JEFFORDS):

S. 595. A bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I am pleased to join Senator BAUCUS in the reintroduction of the Encouraging Work Act of 2005. The Work Opportunity Tax Credit (WOTC) and Welfare-to-Work Tax Credit (W-t-W) are tax incentives that encourage employers to hire public assistance recipients and other individuals with barriers to employment. The combination of Welfare Reform passed by Congress in 1996 and the assistance to employers found in the WOTC and W-t-W has enabled expanded opportunity for many Americans. Yet more can be done. We were pleased that the Senate JOBS bill passed last year included a permanent WOTC/W-t-W provision along with helpful reforms largely supported by the Administration. Unfortunately, it was only extended in another tax relief bill. Without action by Congress WOTC and W-t-W will expire on January 1, 2006.

Under present law, WOTC provides a 40 percent tax credit on the first $6,000 of wages for those working at least 400 hours, or a partial credit of 25 percent for those working 120–399 hours. W-t-W provides a 35 percent tax credit on the first $10,000 of wages for those working 400 hours in the first year. In the second year, the W-t-W credit is 50 percent of the first $10,000 of wages earned. WOTC and W-t-W are key elements of welfare reform. A growing number of employers use these programs in the retail, health care, hotel, financial services, food, and other industries. These programs have helped over 2,700,000 previously dependent persons to find jobs.

WOTC and W-t-W eligibility is limited to: 1. Recipients of Temporary Assistance to Needy Families (TANF) in 9 of the 18 months ending on the hiring date; 2. individuals receiving Supplemental Security Income (SSI) benefits; 3. disabled individuals with vocational rehabilitation referrals; 4. veterans on food stamps; 5. individuals in households receiving food stamp benefits; 6. qualified summer youth employees; 7. low-income ex-felons; and 8. individuals age 18–24 living in empowerment zones or renewal communities. Eligibility for W-t-W is limited to individuals receiving welfare benefits for 18 consecutive months ending on the hiring date. More than 80 percent of WOTC and W-t-W hires were previously dependent on public assistance programs. These credits are both a hiring incentive—offsetting some of the higher costs of recruiting, hiring, and retaining public assistance recipients and other low-skilled individuals—and a retention incentive, providing a higher reward for those who stay longer on the job.

After eight years of experience with these programs, their value has been well demonstrated. In 2001, the GAO issued a report that indicated that employers have significantly changed their hiring practices because of WOTC. With the resources provided by WOTC, employers have provided job mentors, lengthened training periods, engaged in recruiting outreach, and listed jobs or requested referrals from public agencies or partnerships. WOTC and W-t-W have become a true public-private partnership in which the Department of Labor, the Internal Revenue Service, the states, and employers have forged excellent working relationships.

But the challenges for employers and those looking for better opportunities are real. The job skills of eligible persons leaving welfare are sometimes limited, and the costs of recruiting, training, and supervising low-skilled individuals cause many employers to look elsewhere for employees. WOTC and W-t-W are proven incentives for encouraging employers to seek employees from the targeted groups. Despite the considerable success of WOTC and W-t-W, many vulnerable individuals still need a boost in finding employment. There are several legislative changes that would strengthen these programs, expand employment opportunities for needy individuals, and make the programs more attractive to employers.

Combine WOTC and W-t-W. The Administration's FY 2006 budget proposes to simplify these important employment incentives by combining them into one credit and making the rules for computing the combined credits simpler. The credits would be combined by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under the present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees and $6,000 for other target groups ($3,000 for summer youth). In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Eliminate Requirement to Determine Family Income for Ex-Felons. Under current law, only those ex-felons whose annual family income is 70 percent or less than the Bureau of Labor Statistics lower living standard during the six months preceding the hiring date are eligible for WOTC. The Administration's FY 2006 budget proposes to eliminate the family income attribution rule.

Permanent Extension of WOTC and W-t-W. Permanent extension would provide these programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal. A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

Raise the WOTC age eligibility ceiling from 24 to 39 years of age for members of food stamp households and ''high-risk youth'' living in enterprise zones or renewal communities. Current WOTC eligibility rules heavily favor the hiring of women because single mothers are much more likely to be on welfare or food stamps. Women constitute about 80 percent of those hired under the WOTC program, but men from welfare households face the same or even greater barriers to finding work. Increasing the age ceiling in the ''food stamp category'' would greatly improve the job prospects for many absentee fathers and other ''at risk''

males. This change would be completely consistent with program objectives because many food stamp households include adults who are not working, and more than 90 percent of those on food stamps live below the poverty line.

WOTC and W-t-W are also key elements of welfare reform. Employers in the retail, health care, hotel, financial services, and food industries have incorporated this program into their hiring practices and through these programs, more than 2,700,000 previously dependent persons have found work. A recent report issued by the New York State Department of Labor bears this out in economic terms. Comparing the cost of WOTC credits, taken by New York state employers during the period 1996–2003 (for a total of $192.59 million), with savings achieved through closed welfare cases and reductions in vocational rehabilitation programs and jail spending (for a total of $199.89 million), the State of New York concluded that WOTC provided net benefits to the taxpayers even without taking into account the additional economic benefits resulting from the addition of new wages.

In that regard, the New York State analysis concluded that the roughly $90 million in wages paid to WOTC workers since 1996 generated roughly $225 million in increased economic activity. Perhaps even more importantly, the study found that roughly fifty-eight percent of the TANF recipients who entered private sector employment with the assistance of WOTC stayed off welfare. I mention the New York State study because it is the first of its kind; however, I am certain that similar conclusions would be reached in the Commonwealth of Pennsylvania or any of the other forty-eight states and the District of Columbia. These programs work and do so at a net savings to taxpayers. In fact, over a 7-year period there were more than 110,000 certifications for both WOTC and W-t-W in Pennsylvania, alone enabling many to leave welfare and find private sector work. The legislation is supported by hundreds of employers throughout Pennsylvania and around the country. WOTC and W-t-W have received high praise as well from the federal government. A 2001 GAO study concluded that employers have significantly changed their hiring practices because of WOTC by providing job mentors, longer training periods, and significant recruiting outreach efforts.

WOTC and W-t-W are not traditional government jobs programs. Instead they are precisely the type of program that we should champion in a time when we need to be fiscally responsible. These are efficient and low cost public-private partnerships that have as their goal to provide a means by which individuals can transition from welfare to a lifetime of work and dignity.

The Work Opportunity Credit and Welfare-to-Work Credit have been successful in moving traditionally hard-to-employ persons off welfare and into the workforce, where they contribute to our economy. However, employer participation in these important programs can be increased, particularly among small and medium-sized employers. This is due to the complexity of the credits and the fact that they are both only temporary provisions of the tax code subject to renewal every year or two. Small, medium, and even some large employers find it difficult to justify developing the necessary infrastructure to administer and participate in these programs when their continued existence beyond one or two years is constantly in question.

This legislation will remedy this problem by combining WOTC and W-t-W into one, more easily administered tax credit, and by making it a permanent part of the tax code. Many organizations including the National Council of Chain Restaurants, National Retail Federation, Food Marketing Institute, National Association of Convenience Stores, National Restaurant Association, American Hotel & Lodging Association, National Roofing Contractors Association, National Association of Chain Drug Stores, American Nursery and Landscape Association, and the American Health Care Association support this legislaiton. Representatives JERRY WELLER R–IL, CHARLES RANGEL D–NY, and PHIL ENGLISH R–PA are introducing identical legislation in the House of Representatives. I urge my colleagues to join us in supporting this legislation.

Mr. BAUCUS. Mr. President, I am pleased to join my colleague, Senator SANTORUM, in introducing legislation to permanently extend and improve upon the Work Opportunity and the Welfare-to-Work tax credits. Last year, I was pleased to successfully add a permanent a extension of these credits to the Senate passed JOBS bill, which combined the credits and made certain improvements. When the expiring tax provisions were considered last year as part of the Working Families Tax Relief bill, I offered an amendment to combine both credits and make them permanent. While this provision was not retained in conference, I was successful in securing an extension of the current program through December 31, 2005. This extension expires at the end of this year so immediate action is needed to make these credits permanent and make several reforms in the programs to improve their effectiveness. These recurring lapses and extensions make administration of this credit burdensome both for the taxpaying employer, who cannot keep track of who is or isn't qualified, and for the IRS, which needs to ensure taxpayers are complying with the ever-shifting law.

Over the past decade, the Work Opportunity Tax Credit, WOTC, and the Welfare-to Work, W-t-W, have helped over 2.2 million public assistance dependent individuals enter the workforce. Both of these important programs are scheduled to expire on December 31, 2005. These hiring tax incentives have clearly demonstrated their effectiveness in helping to level the job selection playing field for low-skilled individuals by providing employers with additional resources to help recruit, select, train and retain individuals with significant barriers to work. Many vulnerable individuals still need a boost in finding employment, and this is particularly critical during periods of high unemployment. The weak economy and rising unemployment give employers many more hiring options because of the larger pool of experienced laid-off workers. Without an extension of these programs, the task of transitioning from welfare-to-work will become even harder for individuals who reach their welfare eligibility ceiling.

Because of the costs involved in setting up and administering a WOTC/W-t-W program, employers have established massive outreach programs to maximize the number of eligible persons in their hiring pool. The States, in turn, have steadily improved the programs through improved administration. WOTC has become an example of a true public-private partnership design to assist the most needy applicants. Without the additional resources provided by these hiring tax incentives, few employers would actively seek out this hard-to-employ population.

WOTC provides employers with a graduated tax credit equal to 25-percent of the first $6,000 in wages for eligible individuals working between 120 hours and 399 hours and a 40-percent tax credit on the first $6,000 in wages for those working over 400 hours. The W-t-W tax credit is geared toward long-term welfare recipients and provides a 35-percent tax credit on the first $10,000 in wages during the first year of employment and a 50-percent credit on the first $10,000 for those who stay on the job a second year.

In my own State of Montana, many businesses take advantage of this program, including large multinational firms and smaller family-owned businesses. Those who truly benefit from the WOTC/W-t-W program, however, are low-income families, under the Food Stamp Program, the Aid to Families with Dependent Children, AFDC, and Temporary Assistance for Needy Families, TANF, programs, and also low-income U.S. Veterans. In Montana, more than 1,000 people were certified as eligible under the WOTC program during an 18-month period, October 2001 through March 2003, including 476 Food Stamp recipients, 475 AFDC/TANF recipients, and 52 U.S. veterans.

The bill we are introducing provides for a permanent program extension of the two credits. After a decade of experience with WOTC and W-t-W, we know that employers do respond to these important hiring tax incentives. Permanent extension would provide these

programs with greater stability, thereby encouraging more employers to participate, make investments in expanding outreach to identify potential workers from the targeted groups, and avoid the wasteful disruption of termination and renewal A permanent extension would also encourage the state job services to invest the resources needed to make the certification process more efficient and employer-friendly.

The bill also includes a proposal to simplify the programs by combining them into one credit and making the rules for computing the combined credits simpler. This would be accomplished by creating a new welfare-to-work target group under WOTC. The minimum employment periods and credit rates for the first year of employment under present work opportunity tax credit would apply to W-t-W employees. The maximum amount of eligible wages would continue to be $10,000 for W-t-W employees. In addition, the second year 50-percent credit under W-t-W would continue to be available for W-t-W employees under the modified WOTC.

Finally, there are other changes in the bill that would extend these benefits to more people and help them find work. Because of the program's eligibility criteria, over 80 percent of those hired are women leaving welfare. Since men are not eligible for TANF benefits unless they are parenting their kids, the fathers of children on welfare receive little help in finding work, even though they often face barriers to work just as women on welfare do. We propose to help absentee fathers find work and provide the resources to assume their family responsibilities by opening up WOTC eligibility to anyone 39 years old or younger in families receiving food stamps or residing in enterprise zones or empowerment communities. Raising the eligibility limits in these two categories will extend eligibility to hundreds of thousands of at-risk men.

I urge my colleagues to support this important piece of legislation.

By Mr. THOMAS:

S. 596. A bill to reform the nation's outdated laws relating to the electric industry, improve the operation of our transmission system, enhance reliability of our electric grid, increase consumer benefits from wholesale electric competition and restore investor confidence in the electric industry; to the Committee on Energy and Natural Resources.

Mr. THOMAS. Mr. President, today, I rise to introduce the ''Electric Transmission and Reliability Enhancement Act of 2005''. It is my intention to build on the competitive wholesale open access policies adopted by the Congress in the 1992 Energy Policy Act. My legislation would extend and improve these open, non-discriminatory access policies; remove antiquated federal statutory barriers that stand in the way of competitive wholesale markets; encourage increased investment in our transmission system and establish enforceable reliability standards to help ensure the continued reliability of the interstate transmission system.

The Congress has been debating how to update the antiquated statutory and regulatory framework governing the electric industry for over eight years. We repeatedly have tried and failed to enact legislation that would provide the right economic signals and regulatory certainty necessary for industry and wholesale market modernization. The loser in all of this has been the consumer, who has been denied the full benefits that access provides to fairly priced, reliable supplies of power. I have come to the conclusion that if we are to legislate successfully, we will have to pare down our wish list to the bare essentials plus those issues necessary for the electric industry to attract the capital it needs to keep our lights on and ensure that customers pay no more for their power than is fair and necessary.

It seems clear that if truly competitive wholesale markets are to exist, there is a need to ensure that all industry participants play by the same rules. While the Federal Energy Regulatory Commission has tried to ensure this, the Commission's tools are limited. Only Congress can give FERC the tools it needs to ensure that all industry participants in competitive wholesale markets play by the same rules.

Under present federal law FERC has no jurisdiction or authority over transmission facilities owned by public power agencies, municipalities and cooperatives. In the West these types of entities own a substantial portion, perhaps as much as half of the interstate electric transmission system. As a matter of fact, in the Western Electric Coordinating Council, an area that encompasses all or part of 11 Western states and parts of Canada, non-FERC jurisdictional facilities account for 52 percent of transmission miles.

My legislation would permit FERC to require certain nonregulated utilities to offer transmission service at comparable rates to those they charge themselves, and on terms and conditions comparable to those applicable to jurisdictional public utilities. Currently nonregulated transmitting utilities would not be subject to the full panoply of FERC regulation under this provision. Instead, a ''light handed'' form of regulation would apply and small nonregulated entities, such as those that sell less than 4,000,000 MW/h per year, would be entirely exempt from these nondiscrimination requirements.

It also seems clear that the Public Utility Holding Company Act is hindering necessary restructuring of the industry and the deployment of capital into an industry that desperately needs it. Investors are deterred simply because they do not want to deal with the PUHCA rules and restrictions. If repealed, utility securities will continue to be regulated by the SEC, FERC and most state commissions. Mergers and acquisitions of jurisdictional assets would still require FERC and state commission approval and review by the Department of Justice, DOJ, and the Federal Trade Commission, FTC. FERC and state commissions would still be able to monitor rates and prevent cross-subsidies.

Despite State progress in administering the Public Utility Regulatory Policies Act of 1978, it is clear that PURPA continues to provide special privileges to certain favored generators at the expense of utilities and their customers. Like PUHCA, PURPA is no longer needed in today's competitive wholesale markets. My legislation prospectively eliminates the mandatory purchase and sell obligations of PURPA.

Over the years the grid has been well protected through voluntary standards established by the North American Electric Reliability Council. NERC's voluntary reliability standards—which are not enforceable—have generally been complied with by the electric power industry. But with the opening of the wholesale power market to competition, our transmission grid is being used in ways for which it was not designed. New system strains are also being created by the break-up of vertically integrated utilities and by the emergence of new market structures and participants. The results of these changes have been an increase in the number and severity of violations of NERC's voluntary rules.

My legislation converts the existing NERC voluntary reliability system into a mandatory reliability system. A North America-wide organization would have the authority to establish and enforce reliability standards, and take into account regional differences. The new reliability organization will be run by market participants, and will be overseen by the FERC in the U.S. The organization will be made up of representatives of everyone who is affected—residential, commercial and industrial consumers; State public utility commissions; independent power producers; electric utilities and others. There is no question that we need a new system to safeguard the integrity of our electric grid. My legislation would do this, using language that was agreed upon in the last Congress by House and Senate conferees for the energy bill.

During the last energy debate, efforts were made to address some of the more egregious behavior and attempted market manipulation by certain entities through legislation. While this area is obviously very complex, we need to address this issue if regulatory gaps truly do exist. I realize my attempt might not be perfect, but I wanted to initiate discussion on this very important topic if in fact regulatory agencies do need additional authority to police and monitor the industry.

My legislation will provide more information on prices of electricity and

transmission availability, outlaw the practice of round trip trading and prohibit reporting of false information for the purpose of manipulating price indices. In addition I've included authority the FERC has requested and that would increase civil and criminal penalties for violation of the Federal Power Act and accelerate the refund effective date to the date of filing of a complaint.

In the end it's about the consumer. It is my hope and vision that this legislation will produce a more reliable and efficient transmission system and that these improvements will result in more dependable and affordable electricity for all consumers.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 596

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 ''Electric Transmission and Reliability Enhancement Act of 2005''.

TITLE I—TRANSMISSION IMPROVEMENT

SEC. 101. OPEN NON-DISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 the following:

''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

''SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

''(2) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

''(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

''(1) sells no more than 4,000,000 megawatt hours of electricity per year;

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(c) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(d) In exercising its authority under paragraph (1) of subsection (a), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).

''(e) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.

''(f) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(g) For purposes of this subsection, the term 'unregulated transmitting utility' means an entity that—

''(1) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

''(2) is either an entity described in section 201(f) or a rural electric cooperative.''.

SEC. 102. FEDERAL AGENCY COORDINATION.

The Department of Energy shall be the lead agency for conducting environmental review (for purposes of the National Environmental Policy Act of 1969) of the establishment and modification of electric power transmission corridors across federal lands. The Secretary of Energy shall coordinate with Federal agencies, including Federal land management agencies, to ensure the timely completion of environmental reviews pertaining to such corridors and may set deadlines for the completion of such reviews. For purposes of this section, the term ''Federal land management agencies'' means the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, and the Department of Defense. For purposes of this section, ''Federal lands'' means all lands owned by the United States except lands in the National Park System or the national wilderness preservation system, or such other lands as the President may designate.

SEC. 103. PRIORITY FOR RIGHTS-OF-WAY ACROSS FEDERAL LANDS.

Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended by adding the following new subsection at the end thereof:

''(e) In administering the provisions of this title, the Secretary of the Interior and the Secretary of Agriculture shall each give a priority to applications for rights of way for electric power transmission corridors.''.

SEC. 104. ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting the following new section at the end thereof:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—For purposes of this section—

''(1) The term 'bulk-power system' means—

''(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

''(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

''(3) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance or unanticipated failure of system elements.

''(5) The term 'Interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

''(6) The term 'transmission organization' means a regional transmission organization, independent system operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

''(7) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization (ERO). The Commission may certify one such ERO if the Commission determines that such ERO—

''(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system;

''(2) has established rules that—

''(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

''(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

''(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that it proposes to be made effective under this section with the Commission.

''(2) The Commission may approve by rule or order a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification

to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

''(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(A) the Commission finds a conflict exists between a reliability standard and any such provision;

''(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

''(C) the ordered change becomes effective under this part. If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

''(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the Electric Reliability Organization files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the Electric Reliability Organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the Electric Reliability Organization for further proceedings. The Commission shall implement expedited procedures for such hearings.

''(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

''(4) The Commission shall establish regulations directing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(A) the regional entity is governed by an independent, balanced stakeholder, or combination independent and balanced stakeholder board;

''(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

''(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

''(f) CHANGES IN ELECTRICITY RELIABILITY ORGANIZATION RULES.—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the Electric Reliability Organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

''(g) RELIABILITY REPORTS.—The Electric Reliability Organization shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the Electric Reliability Organization in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The Electric Reliability Organization shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) This section does not authorize the Electric Reliability Organization or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

''(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the Electric Reliability Organization.

''(5) The Commission, after consultation with the Electric Reliability Organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.

''(j) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

''(k) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.

TITLE II—ELIMINATION OF COMPETITIVE BARRIERS

Subtitle A—Provisions Regarding the Public Utility Holding Company Act of 1935

SEC. 201. DEFINITIONS.

For the purposes of this subtitle:

(1) The term ''affiliate'' of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) the term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) The term ''person'' means an individual or company.

(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) The term ''public utility company'' means an electric utility company or a gas utility company.

(15) The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 202. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79a and following) is repealed, effective 12 months after the date of enactment of this Act.

SEC. 203. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 204. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, and subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information, a holding company or any associate company or affiliate thereof, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, or other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, or other records, under Federal law, contract, or otherwise.

(c) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 205. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Commission shall promulgate a final rule to exempt from the requirements of section 203 any person that is a holding company, solely with respect to one or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—If, upon application or upon its own motion, the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility company or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility company, the Commission shall exempt such person or transaction from the requirements of section 203.

SEC. 206. AFFILIATE TRANSACTIONS.

Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company, public utility, or natural gas company from an associate company.

SEC. 207. APPLICABILITY.

No provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of such officer, agent, or employee's official duty.

SEC. 208. EFFECT ON OTHER REGULATIONS.

Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

SEC. 209. ENFORCEMENT.

The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.

SEC. 210. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal

Power Act (16 U.S.C. 791a and following) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 and following) (including section 8 of that 1 Act).

SEC. 211. IMPLEMENTATION.

Not later than 12 months after the date of enactment of this Act, the Commission shall—

(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle; and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 212. TRANSFER OF RESOURCES.

All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.

SEC. 213. EFFECTIVE DATE.

This subtitle shall take effect 12 months after the date of enactment of this Act.

SEC. 214. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

Subtitle B—Provisions Regarding The Public Utility Regulatory Policies Act of 1978

SEC. 215. PROSPECTIVE REPEAL OF SECTION 210.

(a) NEW CONTRACTS.—After the date of enactment of this Act, no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electric energy or capacity pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3).

(b) EXISTING RIGHTS AND REMEDIES NOT AFFECTED.—Nothing in this Act affects the rights or remedies of any party with respect to the purchase or sale of electric energy or capacity from or to a facility determined to be a qualifying small power production facility or a qualifying cogeneration facility under section 210 of the Public Utility Regulatory Policies Act of 1978 pursuant to any contract or obligation to purchase or to sell electric energy or capacity in effect on the date of enactment of this Act, including the right to recover the costs of purchasing such electric energy or capacity.

SEC. 216. RECOVERY OF COSTS.

In order to assure recovery by electric utilities purchasing electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this Act, of all costs associated with such purchases, the Commission shall promulgate and enforce such regulations as may be required to assure that no such electric utility shall be required directly or indirectly to absorb the costs associated with such purchases from a qualifying facility. Such regulations shall be treated as a rule enforceable under the Federal Power Act (16 U.S.C. 791a-825r).

SEC. 217. DEFINITIONS.

For purposes of this subtitle, the terms ''Commission'', ''electric utility'', ''qualifying cogeneration facility'', and ''qualifying small power production facility'', shall have the same meanings as provided in the Public Utility Regulatory Policies Act of 1978, and the term ''qualifying facility'' shall mean either a qualifying small production facility or a qualifying cogeneration facility as defined in such Act.

TITLE III—MARKET TRANSPARENCY, ANTI-MANIPULATION AND ENFORCEMENT

Subtitle A—Market Transparency, Anti-Manipulation And Enforcement

SEC. 301. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is amended by adding after section 215 as added by this Act the following:

''SEC. 216. MARKET TRANSPARENCY RULES.

''(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets subject to the Commission's jurisdiction. Such systems shall provide statistical information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

''(b) INFORMATION REQUIRED.—The Commission shall require—

''(1) each regional transmission organization or, where no regional transmission organization is operating, each transmitting utility to provide information about the available capacity of transmission facilities operated by the organization or transmitting utility; and

''(2) each regional transmission organization or broker or exchange to provide aggregate information about the amount and price of physical sales of electric energy at wholesale in interstate commerce it transacts.

''(c) DEFINITION.—For purposes of this section, the term 'broker or exchange' means an entity that matches offers to sell and offers to buy physical sales of wholesale electric energy in interstate commerce.

''(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure information it determines would, if disclosed, be detrimental to the operation of an effective market.''

SEC. 302. MARKET MANIPULATION.

(a) Part II of the Federal Power Act is amended by adding after section 216 as added by this Act the following:

''SEC. 217. PROHIBITION ON FILING FALSE INFORMATION.

''It shall be a violation of this Act for any person willfully and knowingly to report any information relating to the price of electricity sold at wholesale, which information the person knew to be false at the time of the reporting, to any governmental or nongovernmental entity and with the intent to manipulate the data being compiled by such entity.''

''SEC. 218. PROHIBITION ON ROUND TRIP TRADING.

''(a) PROHIBITION.—It shall be a violation of this Act for any person willfully and knowingly to enter into any contract or other arrangement to execute a ''round-trip trade'' for the purchase or sale of electric energy at wholesale.

''(b) DEFINITION OF ROUND-TRIP TRADE.—For the purposes of this section, the term 'round trip trade' means a transaction, or combination of transactions, in which a person or other entity—

''(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or other entity electric energy at wholesale;

''(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with such other person or entity for the same such electric energy, at the same location, price, quantity and terms so that, collectively, the purchase and sale transactions in themselves result in no financial gain or loss; and

''(3) enters into the contract or arrangement with the intent to deceptively affect reported revenues, trading volumes, or prices.''

SEC. 303. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—

(1) inserting ''electric utility,'' after ''Any person,''; and

(2) inserting ''transmitting utility,'' after ''licensee'' each place it appears.

(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting ''or transmitting utility'' after ''any person'' in the first sentence

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''Any person,'' in the first sentence.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 8250) is amended—

(1) in subsection (a), by striking ''$5,000'' and inserting ''$1,000,000'', and by striking ''two years'' and inserting ''five years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and (3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 8250–1) is amended—

(1) in subsections (a) and (b), by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

Subtitle B—Refund Effective Date

SEC. 304. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence 28 and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) striking ''60 days after'' in the third sentence and inserting ''of';

(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''; and

(4) striking the fifth sentence and inserting in lieu thereof: ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.''

By Mr. INOUYE:

S. 598. A bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing; to the Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I rise to introduce a bill to reauthorize Title VIII of the Native American Housing Assistance and Self-Determination Act. Title VIII provides authority for the appropriation of funds for the construction of low-income housing for Native Hawaiians and further provides authority for access to loan guarantees

associated with the construction of housing to serve Native Hawaiians.

Three studies have documented the acute housing needs of Native Hawaiians—which include the highest rates of overcrowding and homelessness in the State of Hawaii. Those same studies indicate that inadequate housing rates for Native Hawaiians are amongst the highest in the Nation.

The reauthorization of Title VIII will support the continuation of efforts to assure that the native people of Hawaii may one day have access to housing opportunities that are comparable to those now enjoyed by other Americans.

I would ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 598

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

SECTION 1. REAUTHORIZATION.

Section 824 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4243) is amended by striking ''fiscal years'' and all that follows and inserting ''fiscal years 2006 through 2009''.

By Mr. CONRAD:

S. 601. A bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan; to the Committee on Finance.

Mr. CONRAD. Mr. President, today I am introducing legislation to correct an injustice in the Internal Revenue Code that is negatively affecting our troops.

I recently received an e-mail from an active-duty Airman who expressed his dismay that he has been told the law requires him to withdraw the money he had contributed to an IRA previously in the year. Here is what he told me:

I am an active-duty member of the military who has been deployed so much that I have not paid taxes for more than a year now. I also had been contributing to a Roth-IRA. I've been told by tax professionals that I will have to withdraw my contributions because I do not show a taxable income. I've been deployed and put in harm's way many times last year and I am not allowed legally to contribute to an IRA like any other average American.

This is an injustice to the soldiers that work so hard under hard conditions. There are thousands of soldiers that are going to be told to take their IRA contributions out since they have been deployed twelve months. This is a slap in the face for those soldiers who have put themselves in danger.

This injustice results from an unintended, but undeniably unjust, interaction between combat pay and IRA rules. Under IRA contribution rules, you can only contribute to a tax-favored retirement account if you have taxable income for the year. Military personnel deployed for a full calendar year or more, however, may have no taxable income because their earnings while serving in a combat zone are excluded from taxation. These troops are therefore prohibited by law from contributing income to an IRA because, technically, they have not earned taxable income.

This is indeed an injustice. This is no way to treat the men and women who have been deployed to combat zones in Iraq and Afghanistan for long periods of time. Rather than discouraging our troops from saving for retirement, we should take steps to ensure that they have the same access to tax-favored retirement savings programs as the rest of us.

I ask my colleagues to join me in correcting this injustice. The bill I am introducing today simply amends the Internal Revenue Code to allow our dedicated military service men and women to contribute to lRAs, regardless of their deployment status.

My bill presents an opportunity for the United States Senate to support retirement savings and our brave military personnel. This is a win-win for all involved. I hope my colleagues will join me in correcting this injustice and send this bill to the President for his quick signature.

By Ms. MIKULSKI (for herself, Mr. BOND, Mrs. CLINTON, Mr. WARNER, Ms. COLLINS, Mr. KENNEDY, Mr. WYDEN, Mr. SARBANES, Mr. JOHNSON, Mr. NELSON of Florida, Ms. LANDRIEU, Ms. STABENOW, Mrs. LINCOLN, Mr. KERRY, Mr. LAUTENBERG, Mr. DAYTON, Mr. KOHL, Mr. LEAHY, Mr. DURBIN, Mrs. BOXER, Mr. DODD, Mr. TALENT, Mr. LIEBERMAN, Mrs. DOLE, Mr. HAGEL, Mr. LUGAR, Mr. COLEMAN, Mrs. MURRAY, Mr. HARKIN, Ms. CANTWELL, Mr. BAYH, and Mr. ROCKEFELLER):

S. 602. 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; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to speak of the life, leadership and the truly remarkable legacy of the 40th President of the United States, Ronald Reagan.

President Reagan was a great communicator with a powerful message. He preached the gospel of hope, freedom and opportunity not just for America but for the world. Reagan was a genuinely optimistic person who brought that spirit of optimism and hope to the American people and to enslaved peoples around the world. He was a man who took disappointment and moved on. He was a man of unfailing good humor, care and thoughtfulness. Even people who disagreed with his policies across the board could not help but like him.

In the U.S., his policies encouraged the return of more tax dollars to average Americans and unfettered entrepreneurship to create jobs and build the economy. Reagan's strong military opposition to the Soviet Union helped bring down the walls that harbored communism and tyranny throughout Eastern Europe and much of the world.

In a letter to the American people in 1994 Ronald Reagan announced he was one of the millions of Americans with Alzheimer's disease. One of the most courageous things Ronald and Nancy Reagan did was to announce publicly that he had Alzheimer's disease. Through their courage and commitment, the former President and his wife, Nancy, changed the face of Alzheimer's disease by increasing public awareness of the disease and of the need for research into its causes and prevention.

In honor of Ronald Reagan, today my colleague Senator MIKULSKI and I are introducing the Ronald Reagan Alzheimer's Breakthrough Act. This bill will increase research for Alzheimer's and increase assistance to Alzheimer patients and their families. This bill will serve as a living tribute to President Reagan and will: 1. Double funding for Alzheimer's Research at the National Institute of Health; 2. increase funding for the National Family Caregiver Support Program from $153 million to $250 million; 3. reauthorize the Alzheimer's Demonstration Grant Program that provides grants to states to fill in gaps in Alzheimer's services such as respite care, home health care, and day care; 4. authorize $1 million for the Safe Return Program to assist in the identification and safe, timely return of individuals with Alzheimer's disease and related dementias who wander off from their caregivers; 5. establish a public education campaign to educate members of the public about prevention techniques that can ''maintain their brain'' as they age, based on the current research being undertaken by NIH; 6. establish a $3,000 tax credit for caregivers to help with the high health costs of caring for a loved one at home; and 7. encourage families to prepare for their long term needs by providing an above-the-line tax deduction for the purchase of long term care insurance.

Ironically it was President Reagan who drew national attention to Alzheimer's for the very first time when he launched a national campaign against Alzheimer's disease some 22 years ago.

In 1983 President Reagan proclaimed November as National Alzheimer's Disease Month. In his proclamation President Reagan said ''the emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves special attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat it successfully. Right now, research is the only hope for victims and families.''

Today, approximately 4.5 million Americans have Alzheimer's, with annual costs for this disease estimated to exceed $100 billion. Today there are more than 4.5 million people in the United States with Alzheimer's, and that number is expected to grow by 70 percent by 2030 as baby boomers age.

In my home State of Missouri, alone, there are over 110,000 people with Alzheimer's disease. Based on population growth, unless science finds a way to prevent or delay the onset of this disease, that number will increase to over 130,000 by 2025—that is an 18 percent increase.

In large part due to President Reagan, there has been enormous progress in Alzheimer research—95 percent of what we know we discovered during the past 15 years. There is real potential for major breakthroughs in the next 10 years. Baby boomers could be the first generation to face a future without Alzheimer's disease if we act now to achieve breakthroughs in science.

President and Mrs. Reagan have been leading advocates in the fight against Alzheimer's for more than 20 years, and millions of Americans have been helped by their dedication, compassion and effort to support caregivers, raise public awareness about Alzheimer's disease and increase of nation's commitment to Alzheimer's research.

This bill will serve as a living tribute to President Reagan and will offer hope to all those suffering from the disease today. As we celebrate the life and legacy of Ronald Reagan, we are inspired by his legendary optimism and hope, and today we move forward to confront this expanding public health crisis with renewed vigor, passion, and compassion.

Ms. COLLINS. Mr. President, as the Senate co-chair of the Bipartisan Task Force on Alzheimer's Disease, I am pleased to join Senators BOND and MIKULSKI in introducing the Ronald Reagan Alzheimer's Breakthrough Act of 2005.

Alzheimer's is a devastating disease that takes a tremendous personal and economic toll on both the individual and the family. As someone whose family has experienced the pain of Alzheimer's, I know that there is no more helpless feeling than to watch the progression of this dreadful disease. It is an agonizing experience to look into the eyes of a loved one only to receive a confused look in return.

Ronald Reagan had a profound effect on our Nation in many ways during his Presidency. But what many of us will remember most is the grace and dignity with which he and his wife Nancy faced the final battle against Alzheimer's—the one campaign they knew he wouldn't win.

Ironically, it was President Reagan who first drew national attention to Alzheimer's disease when he launched a national campaign against the disease some 22 years ago. In 1983, President Reagan proclaimed November as National Alzheimer's Disease Month. In his proclamation, President Reagan said: ''The emotional, financial and social consequences of Alzheimer's disease are so devastating that it deserves attention. Science and clinical medicine are striving to improve our understanding of what causes Alzheimer's disease and how to treat it successfully. Right now, research is the only hope for victims and their families.''

An estimated 4.5 million Americans have Alzheimer's disease, more than double the number in 1980. Moreover, Alzheimer's disease costs the United States more than $100 billion a year, primarily in nursing home and other long-term care costs. This figure will only increase exponentially as the baby boom generation ages. As the baby boomers move into the years of highest risk for Alzheimer's disease, a strong and sustained research effort is our best tool to slow down the progression and prevent the onset of this terrible disease.

Our investments in Alzheimer's disease research have begun to pay dividends. Effective treatments for Alzheimer's disease and a possible vaccine are tantalizingly within our grasp. Moreover, if scientists can find a way to delay the onset of this devastating disease for even five years, our Nation will save at least $50 billion in annual health and long-term care costs and an incalculable amount in human suffering.

If we are to keep up the momentum we have established, we must increase our investment in Alzheimer's disease research. Millions of Americans, including the families of Alzheimer patients, are profoundly grateful for our historic accomplishment of doubling funding for biomedical research at the National Institutes of Health. We have made tremendous progress, but more must be done. The bill we are introducing today therefore doubles the authorization levels for Alzheimer's research at the NIH from the current funding level of $700 million to $1.4 million.

In addition to increasing funding for research, our bill provides much needed support for Alzheimer's patients and their families by increasing funding for the National Family Caregiver Support Program and by providing a tax credit of up to $3,000 to help families meet the costs of caring for a loved one with long-term care needs.

The Ronald Reagan Alzheimer's Breakthrough Act of 2005 will serve as a living tribute to President Reagan and will offer hope to all of those suffering from the disease today. It is now time for Congress to pick up the banner and pass this important legislation, and I urge all of my colleagues to sign on as cosponsors.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 79—EXPRESSING THE SENSE OF THE SENATE IN MARKING THE DEDICATION ON MARCH 15, 2005, OF THE EXPANDED MUSEUM COMPLEX AT YAD VASHEM, THE HOLOCAUST MARTYRS AND HEROES REMEMBRANCE AUTHORITY IN ISRAEL, IN FURTHERANCE OF YAD VASHEM'S MISSION TO DOCUMENT THE HISTORY OF THE JEWISH PEOPLE DURING THE HOLOCAUST, TO PRESERVE THE MEMORY AND STORY OF EACH OF THE VICTIMS, IMPART THE LEGACY OF THE HOLOCAUST TO FUTURE GENERATIONS, AND RECOGNIZE THE RIGHTEOUS AMONG THE NATIONS

Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 79

Whereas 6,000,000 Jews were slaughtered in the Holocaust solely because of the faith into which they were born;

Whereas the Holocaust is seared into the world's memory as the quintessential expression of the evil of anti-Semitism;

Whereas Yad Vashem has become the world's university devoted to exposing the evil of anti-Semitism;

Whereas Yad Vashem's archives contain the largest and most comprehensive repository of material on the Holocaust in the world, containing 62,000,000 pages of documents, nearly 267,500 photographs, thousands of films and videotaped testimonies of survivors, and the Righteous Among the Nations (non-Jews who risked their lives to save Jewish people during the Holocaust), all accessible to the public;

Whereas those archives are the witness to both inexplicable acts of cruelty and daily acts of courage;

Whereas the history of the Holocaust, as embodied at Yad Vashem, represents the depths to which humanity can descend and the heights to which it can soar;

Whereas to ensure that Holocaust commemorations in future generations among both Jews and non-Jews have relevance and meaning, Yad Vashem has undertaken an extraordinary expansion of its facilities;

Whereas the centerpiece of this expansion is the new Holocaust History Museum building designed by world-renowned architect Moshe Safdie;

Whereas a central role in bringing the Holocaust History Museum to fruition was played by Holocaust survivor Joseph Wilf of New Jersey and his family;

Whereas through this new museum, Yad Vashem honors the lives of the victims and the Righteous Among the Nations in perpetuity;

Whereas the unique buildings and archives of Yad Vashem ensure that we, our children, and their children will never forget; and

Whereas the Israeli Knesset established Yad Vashem in 1953, founded on the biblical injunction set forth in Isaiah, chapter 56, verse 5: ''And to them will I give in my house and within my walls a memorial and a name (a 'yad vashem') . . . an everlasting name which shall not perish,'' and, for more than 50 years, Yad Vashem has steadfastly fulfilled this purpose: Now, therefore, be it

Resolved, That the Senate recognizes—

(1) Yad Vashem as a trustee of the World's conscience, so that the meaning of ''never again'' becomes the living foundation of our collective humanity; and

(2) that March 15, 2005, the date of the dedication of Yad Vashem's expanded facilities, is a date of historical significance that will be remembered as such by future generations.

SENATE RESOLUTION 80—HONORING THE LIFE OF FERN HOLLAND AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HER FAMILY ON THEIR LOSS

Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Mr. SARBANES, and Mrs. CLINTON) submitted the following resolution, which was considered and agreed to:

S. RES. 80

Whereas the Senate remembers with great sadness the murder of Fern Holland near the Iraqi city of Karbala at the age of 33 on March 9, 2004;

Whereas Fern Holland, born in Bluejacket, Oklahoma, on August 5, 1970, lived her life committed to creating the most equal and just global society possible;

Whereas Fern Holland graduated with honors in psychology at Oklahoma University and actively sought to help the world through caring for children dying of nuclear-related diseases in Russia and teaching kids in a squatter camp in South Africa;

Whereas in the spring of 2000, Fern Holland worked for the Peace Corps as a human rights legal advisor in West Africa;

Whereas in 2003, Fern Holland went to investigate alleged human rights violations for the American Refugee Committee at a refugee camp in Guinea where she established a legal clinic to seek justice for victims of human rights violations, and which, at the time of her death in 2004, had handled 118 cases on behalf of victims of human rights violations;

Whereas in May 2003, Fern Holland went to Iraq as a United States Agency for International Development employee to work for women's rights;

Whereas in Iraq, Fern Holland organized human rights groups, opened 6 women's centers in south Baghdad, and acted as a strong advocate for Iraqi women's rights;

Whereas after Fern Holland's death, leading feminists from the National Organization for Women, the Feminist Majority Foundation, and the National Council of Women's Organizations issued statements praising her work;

Whereas residents of the refugee camp in Guinea renamed the legal clinic Fern Holland established the ''Fern Holland Legal Aid Clinic of Nzerekore'';

Whereas the high school Fern Holland attended in Miami, Florida observed a moment of silence and then discussed a memorial to honor her;

Whereas the Cherokee Nation honored Fern Holland by passing a resolution saying she ''died as a warrior'';

Whereas Fern Holland was posthumously named a Heroic Oklahoman on April 7, 2004, by Governor Brad Henry; and

Whereas Fern Holland devoted her brief life to promoting her belief in basic human rights and the rule of law: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that, in Fern Holland, the World has lost one of its most devoted and hard working human rights activists;

(2) honors Fern Holland in her extreme dedication to making the world a better place; and

(3) expresses its deep and heartfelt condolences to the family of Fern Holland on their loss.

SENATE RESOLUTION 81—RECOGNIZING THE CONTRIBUTION OF CHRIS LEDOUX TO COUNTRY MUSIC

Mr. BURNS (for himself, Mr. THOMAS, and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 81

Whereas Chris LeDoux, a former rodeo world champion in bareback riding and country music star, died on March 9, 2005;

Whereas Chris LeDoux was born in Biloxi, Mississippi, in 1948;

Whereas Chris LeDoux won the Wyoming State Rodeo Championship in high school, continued riding in college, earning a rodeo scholarship, and rode professionally, winning the bareback championship at the National Rodeo Finals;

Whereas Chris LeDoux made important contributions to the country music community, through songs such as ''Whatcha Gonna Do With a Cowboy'' and ''Much Too Young to Feel this Damn Old'';

Whereas Chris LeDoux worked with well-known artists throughout his career, such as Garth Brooks and Charlie Daniels: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the contribution of Chris LeDoux to country music;

(2) has heard with profound sorrow and deep regret of the death of Chris LeDoux; and

(3) directs the Secretary of the Senate transmit enrolled copies of this resolution to the House of Representatives and the family of Chris LeDoux.

SENATE CONCURRENT RESOLUTION 17—CALLING ON THE NORTH ATLANTIC TREATY ORGANIZATION TO ASSESS THE POTENTIAL EFFECTIVENESS OF AND REQUIREMENTS FOR A NATO-ENFORCED NO-FLY ZONE IN THE DARFUR REGION OF SUDAN

Mr. BIDEN (for himself, Mr. CORZINE, Mr. FEINGOLD, Mr. DODD, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. OBAMA, and Mrs. BOXER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 17

Whereas the Government of Sudan continues to commit crimes against humanity and engage in genocidal acts in the Darfur region of Sudan;

Whereas the signing of the Comprehensive Peace Agreement between the government in Khartoum and the Sudanese People's Liberation Army on January 9, 2005, has not resulted in an improvement of the security situation in Darfur;

Whereas, on January 26, 2005, the Government of Sudan bombed the village of Rahad Kabolong in the state of North Darfur, killing an estimated 100 people;

Whereas, in February of 2005, the African Union reported that the security situation in Darfur had deteriorated over the course of the previous four months;

Whereas, in March 2005, Doctors Without Borders issued a report that stated that rape of women in Darfur continues unabated;

Whereas United Nations officials have stated that at least 70,000 people have died due to violence and insecurity in Darfur, but that the total is likely higher;

Whereas, according to the United Nations, the number of people internally displaced due to the conflict in Darfur has risen over the past year to nearly 1,850,000, and over 200,000 people are refugees in neighboring Chad;

Whereas aid organizations believe that approximately 1,000 people per day are dying as a direct and indirect result of the conflict in Darfur;

Whereas neither the mandate nor the troop strength of the African Union Mission in Sudan is adequate to protect civilians in that country; and

Whereas all members of the international community must participate in efforts to stop genocide, war crimes, and crimes against humanity in Darfur: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) strongly condemns the continued attacks on civilians in Darfur;

(2) calls on all parties to abide by the terms of the April 8, 2004, N'Djamena ceasefire agreement;

(3) calls on the Government of Sudan to immediately withdraw all military aircraft from the region and disarm the janjaweed militias;

(4) commends the Africa Union Mission in Sudan for its actions to date in monitoring the implementation of the N'Djamena ceasefire agreement in Darfur;

(5) urges the President to immediately direct the United States Permanent Representative to the North Atlantic Treaty Organization to propose in the North Atlantic Council that NATO assess and report to members on the potential effectiveness of and requirements for a NATO-enforced no-fly zone across the Darfur region of Sudan; and

(6) calls upon NATO allies to support the dispatch of such an assessment mission.

Mr. BIDEN. Mr. President, the second reason I rise is literally a coincidental but important offshoot of what Christopher Dodd, Senator DODD's father, did at the Nuremberg Trials. What they did—he and Justice Jackson—was they understood that you could uncover, deal with, and expose to the world atrocities humanity commits upon humanity and at the same time do it under the rule of law, give people a fair trial, actually abide by what we say we stand for.

All of us are aware of the genocide now taking place in the Darfur region of Sudan. We passed a resolution last July which called Khartoum's abuses in Darfur genocide, which is what they were, what they are, and what they continue to be. The then-Secretary of State Colin Powell made the same assessment in testimony before the Senate Foreign Relations Committee in September of 2004.

The President of the United States, President Bush, signed legislation imposing sanctions on Khartoum for the actions in Darfur this past December. With the signing of the North-South Peace Agreement on January 9, administration officials believed the situation in Darfur would improve. Unfortunately, they have only gotten worse.

The Government of Sudan and its proxy militia continue to attack civilians with impunity. An estimated 100 people were killed in an aerial bombardment in Sudan at the end of January.

In February, the African Union officials reported that the security situation in Darfur had deteriorated over the past 4 months and said that the government and its allied militias were primarily to blame.

This month, Doctors Without Borders has reported that rape continues as a routine practice, routinely used as a weapon against the women in the region with no sign of abating.

The insecurity continues to hamper aid efforts, and on March 6, the United Nations forbade its workers from traveling to certain areas—the latest in a series of security measures put in place after aid workers were kidnapped and then killed. Aid organizations report that as many as 1,000 people a day are dying because of the lack of access to food and medicine.

All told, violence and insecurity have resulted in at least 70,000 deaths, although some believe the total to be much higher. The number of internally displaced persons has risen to nearly 2 million people. There are over 200,000 refugees in Chad alone. The current registration being conducted reveal that there are far more than the 20,0000 refugees in neighboring Chad.

The African Union Force in Darfur has made a noticeable difference in the areas they are able to reach, but it does not have the size, the mandate, or the capability to protect civilians in Darfur. AU monitors have come under fire from government allied forces and, in some instances, have been prevented from investigating allegations of cease-fire violations.

The AU faces a serious lack of capacity both at the headquarters level and at the level of member states. Out of a mandated 3,000 troops, fewer than 2,000 are on the ground. And even at full strength, 3,000 soldiers is not enough to prevent further abuse of civilians and to investigate cease-fire allegations in the area the size of France.

It is evident to me that the administration—our administration—needs to devote some focused time and attention to addressing the genocide in Darfur. Our current policy has not turned the tide. We need to redouble our efforts and bring an end to the genocide in Darfur. The question will be 5 years from now to all of us: Where were we? Where were we? What did we do when this genocide unfolded? There will be another Academy Award-nominated movie about the god-awful genocide that is taking place, the routine rape, the systematic elimination of a whole people.

Today, I sent a letter to the President of the United States urging him to instruct our permanent representative at the NATO alliance, the so-called NAC, the North Atlantic Council, to propose that NATO assess and report immediately to members on the potential effectiveness of and requirements for a NATO-enforced no-fly zone across Darfur in the region of the Sudan. The reason I sent the letter is I am absolutely certain of what NATO will say. They are fully, totally capable of enforcing a no-fly zone out of Chad. The French could do it now.

I have been one who has been critical of this administration. I apologize for discussing this in the middle of a bill we have been working on for a long time but, literally, events are overtaking us.

I am confident that NATO will point out they are fully physically capable of taking and imposing a no-fly zone in the region. That will be significant. My friend from New Jersey has been a leader on this subject and this issue. He has been banging us about the head to do more. He has a much more expansive proposal, which I support, than what I am proposing today.

I have stood in this Senate and defended our European allies against some of the broader allegations in the Bush allegation, but I must say today, I am tired of our French friends and others bleeding all over us about the plight of the people in Iraq, the plight of the people in other parts of the world, when it is fully within their capability right now that France could do this all by itself. Right now. They have the wherewithal, they have the aircraft, they are positioned, and they very much want to make sure that they are recognized as a major player in Africa.

I am, quite frankly, more than disappointed—appalled—for all their talk that they are not acting at all. That does not relieve us of responsibility. The fact that another nation has the capacity and has a history that would warrant it taking the action that needs to be taken now, and does not, does not free us of an obligation.

Today's Washington Post editorial page says that enforcing the no-fly zone in Darfur would require ''one squadron of 12 to 18 fighter aircraft backed up by 4 AWAC planes,'' and cites a retired Air Force general as their source for believing such. Let's find out whether they are right. I believe they are. I have no reason to doubt that this Air Force general has talked not only to them but to others. But let's make it official. Let's do an assessment. Let's force the NAC to make an assessment now. I believe they will come back with exactly what I have just stated—a squadron, backed up by AWAC, that will be able to take out those gunships that are being used now to decimate entire villages.

As I said, my friend from New Jersey witnessed—I don't think he witnessed the actual gunships in action, but he witnessed the results. Let's find out now so we cannot kid around with ourselves, so we do not do what we are doing today, what we were doing last week and last month. We think this is an awful occurrence; we condemn it; but it is beyond our capacity to effect an outcome.

That is what they said to me in 1993 in Bosnia. That is what they said in 1997 in Kosovo. That is what we didn't do in Rwanda. This is time to act. It is within our capacity to do so. I believe it is totally consistent with the President's call for freedom, totally consistent with the President's Inaugural speech, which I applaud, totally consistent with what I believe and hope is in his heart, to be able to stop this kind of action.

The question is, why propose sending the NATO mission to Darfur? A NATO mission will do three things. First, it will provide immediate security for the people of Darfur by preventing area bombardment on the ground by the government of Sudan. Second, it will bolster the ability of the African force on the ground by discouraging attacks in the AU personnel and helicopters. Finally, it will send an unequivocal message to the international community that we will no longer tolerate Khartoum's actions.

Some may say, Why aren't you going to the U.N.? This is a point I want to make again and again, one I made back in 1993, 1995, 1997 and 1998. When that body does not act responsibly and when there is a genocide underway, it is fully within our rights—and I will argue our obligation—to act, hopefully, with others, with the strongest alliance in the history of the modern world, NATO. But even if they don't, we have a right, for I would argue and I say that which I am not supposed to say: If you engage in genocide, the world should reach a conclusion that you forfeit your sovereignty. You forfeit your sovereignty if you engage in genocide. That should be a principle we should state loudly and clearly. That warrants, if the capacity exists, the use of whatever action is possible to stop the genocide.

I realize we have 12 divisions, 10 of which are coming or going to Iraq. But we are not talking about a division here. We don't need a division here. We are going to look back and find a squadron of aircraft, possibly several thousand American forces. That is what I would do, by the way. I think we should put ground forces in as well, but I am not asking that. All I am asking is, quite frankly, prick NATO's conscience and have them give us an honest assessment of what would, in fact, be required to enforce a no-fly zone.

I send a resolution to the desk. I apologize I have not circulated this, but I know my colleague from New Jersey, as I say, has been heard on this and wants to be added. I know Senator DURBIN does.

I ask unanimous consent it remain open for the remainder of the day for me to be able to add cosponsors on both sides.

I thank the Chair and my colleagues for their indulgence.

Mr. FEINGOLD. I ask unanimous consent to be added as a cosponsor.

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

AMENDMENTS SUBMITTED AND PROPOSED

SA 139. Mr. MCCONNELL (for Mr. CRAIG) proposed an amendment to the resolution S. Res. 71, designating the week beginning March 13, 2005 as ''National Safe Place Week''.

SA 140. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 328, to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000; which was referred to the Committee on Foreign Relations.

TEXT OF AMENDMENTS

SA 139. Mr. MCCONNELL (for Mr. CRAIG) proposed an amendment to the resolution S. Res. 71, designating the week beginning March 13, 2005, ''National Safety Place Week''; as follows:

In Section (2), strike ''requests that the President issue a proclamation calling'' and replace with ''calls''.

SA 140. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 328, to facilitate the sale of United States agricultural products to Cuba, as authorized by the Trade Sanctions Reform and Export Enhancement Act of 2000; which was referred to the Committee on Foreign Relations; as follows:

At the appropriate place, insert the following:

SEC. ___. PRESIDENTIAL CERTIFICATION.

Notwithstanding any other provision of law, this Act and the amendments made by this Act shall not take effect until the President certifies to Congress that Cuba has released or properly accounted for political prisoners being held in Cuba, including the following individuals:

(1) Dr. Oscar Elias Biscet.
(2) Horacio Julio Pina Borrego.
(3) Osvaldo Alfonso Valdes.
(4) Ricardo Gonzalez Alfonso.
(5) Pedro Pablo Alvarez Ramos.
(6) Julio C. Galvez Rodriguez.
(7) Edel Jose Garcia Diaz.
(8) Marcelo Cano Rodriguez.
(9) Angel Moya Acosta.
(10) Manuel Vazquez Portal.
(11) Adolfo Fernandez Sainz.
(12) Carmelo Diaz Fernandez.
(13) Nelson Molinet Espino.
(14) Eduardo Diaz Fleitas.
(15) Fidel Suarez Cruz.
(16) Jorge Olivera Castillo.
(17) Orlando Fundora Alvarez.
(18) Roberto de Miranda Hernandez.
(19) Efren Fernandez Fernandez.
(20) Victor Rolando Arroyo Carmona.
(21) Orlando Zapata Tamayo.
(22) Oscar Espinosa Chepe.
(23) Hector Maseda Gutierrez.
(24) Majail Barzaga Lugo.
(25) Nelson Aguiar Ramirez.
(26) Antonio Diaz Sanchez.
(27) Regis Iglesias Ramirez.
(28) Martha Beatriz Roque Cabello.
(29) Hector Palacios Ruiz.
(30) Marcelo Lopez Banobre.
(31) Alfredo Felipe Fuentes.
(32) Hector Raul Valle Hernandez.
(33) Guido Sigler Amaya.
(34) Miguel Sigler Amaya.
(35) Felix Navarro Rodriguez.
(36) Librado Linares Garcia.
(37) Lester Gonzalez Penton.
(38) Omar Pernet Hernandez.
(39) Antonio A. Villarreal Acosta.
(40) Pedro Arguelles Moran.
(41) Alejandro Gonzalez Raga.
(42) Mario Enrique Mayo Hernandez.
(43) Dr. Jose Luis Garcia Paneque.
(44) Alfredo Dominguez Batista.
(45) Reynaldo Labrada Pena.
(46) Julio Antonio Valdes Guevara.
(47) Jose Ramon Gabriel Castillo.
(48) Luis Milan Fernandez.
(49) Alexis Rodriguez Fernandez.
(50) Leonel Grave de Peralta.
(51) Juan Carlos Herrera Acosta.
(52) Rafael Mollet Leyva.
(53) Arnaldo Ramos Lausurique.
(54) Raul RIvero Castaneda.
(55) Migueal Valdes Tamayo.
(56) Miguel Valdes Tamayo.
(57) Miguel Galvan Gutierrez.
(58) Jose Miguel Martinez Hernandez.
(59) Jose Ubaldo Izquierdo Hernandez.
(60) Ariel Sigler Amaya.
(61) Ivan Hernandez Carillo.
(62) Diosdado Gonzalez Marrero.
(63) Margarito Broche Espinosa.
(64) Arturo Perez de Alejo.
(65) Omar Ruiz Hernandez.
(66) Blas Giraldo Reyes Rodriguez.
(67) Pablo Pacheco Avila.
(68) Alfredo Pulido Lopez.
(69) Normando Harandez Gonzalez.
(70) Jorge Luis Gonzalez Tanquero.
(71) Luis Enrique Ferrer Garcia.
(72) Prospero Gainza Aguero.
(73) Cruz Delia Aguilar Mora.
(74) Claro Sanchez Altarriba.
(75) Jose Daniel Ferrer Garcia.
(76) Ricardo Silva Gual.
(77) Jesus Mustafa Felipe.
(78) Manueal Ubias Gonzalez.
(79) Fabio Prieto Llorente.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, March 10, 2005. The purpose of this hearing will be to consider the reauthorization of the Commodity Futures Trading Commission.

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

COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 10, 2005, at 9:30 a.m., in open session to receive testimony on the review of Department of Defense detention operations and detainee interrogation techniques.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 10, 2005, at 2:30 p.m., to conduct a hearing on ''Identity Theft: Recent Developments Involving the Security of Sensitive Consumer Information''.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 10, 2005, at 10 a.m. on pending committee business.

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

COMMITTEE ON THE JUDICIARY

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 10, 2005, at 11 a.m. in Senate Dirksen Office Building Room 226. The agenda is attached.

AGENDA

I. Nominations

William G. Myers, III, to be U.S. Circuit Judge for the Ninth Circuit.

II. Legislation

Asbestos Legislation.

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

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 10 a.m. on Monday, the Senate proceed to the consideration of the budget resolution; provided further that when the Senate begins the consideration of the resolution on Monday there will be a total of 45 hours remaining on that resolution, with 22 hours controlled by the majority and 23 controlled by the minority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, as in executive session, I ask unanimous consent that when the nomination for the Assistant Secretary for Civil Works is received by the Senate, it be referred to the Committee on Armed Services; provided that when the Committee on Armed Services reports the nomination it be referred to the Committee on Environment and Public Works for a period of 20 days of session; provided further that if the Committee on Environment and Public Works does not report the nomination within those 20 days, the committee be discharged from further consideration of the nomination and the nomination be placed on the Calendar.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INHOFE. This order is a joint request by the chairmen and ranking members of the Committee on Armed Services and the Committee on Environment and Public Works. As Chairman of the Environment and Public Works Committee, and as a member of the Armed Services Committee, I want

to thank Chairman WARNER and Senator LEVIN for working together with Senator JEFFORDS and myself on this order.

Mr. WARNER. I thank Chairman INHOFE and as Chairman of the Committee on Armed Services, I am pleased to join him and our Committees' ranking members in supporting this order. I note that the issues for which the Assistant Secretary of the Army for Civil Works is responsible fall within the jurisdiction of both the Armed Services Committee and the Committee on Environment and Public Works.

Since the attacks of September 11, 2001, the Assistant Secretary of the Army for Civil Works has played an increasingly important role within the Department of Defense and the Department of the Army for homeland defense and homeland security. The Army protects and supports the American people in the event of natural and man-made disasters and emergencies. Army programs provide public works and engineering assistance to protect human life, reduce suffering, and mitigate damage, and Army response activities supplement State and local efforts. The Assistant Secretary of the Army for Civil Works also has responsibilities, in concert with the Chief of Staff of the Army, in directing the foreign activities of the U.S. Army Corps of Engineers and formulating and overseeing the budget of the Arlington National Cemetery, matters of great concern to the Armed Services Committee.

I note, as well, that there are matters under the Assistant Secretary of the Army for Civil Works' purview which are of concern to the Committee on Environment and Public Works. Army programs for conservation and development of national water resources, including flood control, navigation, and shore protection, come to mind. Consequently, I fully support this initiative noting that the order is identical to orders by the Senate in the 107th and 108th Congress.

Mr. JEFFORDS. I too support this order and I want to thank my colleagues on both the EPW Committee and Armed Services for working together on this joint request.

Mr. LEVIN. I want to thank my colleagues and I am pleased to join them in supporting this joint request.

EXECUTIVE CALENDAR

NOMINATION OF MICHAEL JACKSON, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of the following nomination on the Executive Calendar, No. 23, Michael Jackson, to be Deputy Secretary of Homeland Security.

I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination be printed in the RECORD; further, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nomination considered and confirmed is as follows:

NOMINATIONS

DEPARTMENT OF HOMELAND SECURITY

Michael Jackson, of Virginia, to be Deputy Secretary of Homeland Security.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

MEASURE PLACED ON THE CALENDAR—S. 570

Mr. MCCONNELL. I understand that there is a bill at the desk that is due a second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 570) to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

Mr. MCCONNELL. In order to place the bill on the Calendar under the provisions of rule XIV, I would object to further proceedings.

The PRESIDING OFFICER. The objection is heard. The bill will be placed on the Calendar.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the Senator from Delaware, Mr. BIDEN, as Vice Chairman of the Senate Delegation to the NATO Parliamentary Assembly during the 109th Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276h–276k, as amended, appoints the Senator from Connecticut, Mr. DODD, as Vice Chairman of the Senate Delegation to the Mexico-U.S. Interparliamentary Group conference during the 109th Congress.

The Chair, on behalf of the Majority Leader, pursuant to Public Law 106–567, as amended by Public Law 108–458 (Section 1102), appoints the following individual to serve as a member of the Public Interest Declassification Board: Joan Vail Grimson of Virginia.

ACTIONS OF RUSSIA REGARDING GEORGIA AND MOLDOVA

Mr. MCCONNELL. I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and the Senate now proceed to S. Res. 69.

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

The legislative clerk read as follows:

A resolution (S. Res. 69) expressing the sense of the Senate about the actions of Russia regarding Georgia and Moldova.

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

Mr. MCCONNELL. 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. 69) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 69

Whereas the Organization for Security and Cooperation in Europe (OSCE) evolved from the Conference on Security and Cooperation in Europe (CSCE), which was established in 1975, and the official change of its name from CSCE to OSCE became effective on January 1, 1995;

Whereas the OSCE is the largest regional security organization in the world with 55 participating States from Europe, Central Asia, and North America;

Whereas the 1975 Helsinki Final Act, the 1990 Charter of Paris, and the 1999 Charter for European Security adopted in Istanbul are the principal documents of OSCE, defining a steadily evolving and maturing set of political commitments based on a broad understanding of security;

Whereas the OSCE is active in early warning, conflict prevention, crisis management, and post-conflict rehabilitation;

Whereas Russia and Georgia agreed at the 1999 OSCE Summit in Istanbul on specific steps regarding the withdrawal from Georgia of Russian forces, including military equipment limited by the Treaty on Conventional Armed Forces in Europe (CFE), and committed to resolve other key issues relating to the status and duration of the Russian military presence in Georgia;

Whereas Russia has completed some of the withdrawal from Georgia of military equipment limited by the CFE Treaty in excess of agreed levels, but has yet to agree with Georgia on the status of Russian forces at the Gudauata base and the duration of the Russian presence at the Akhalkalaki and Batumi bases;

Whereas Russia completed the withdrawal from Moldova of its declared military equipment limited by the CFE Treaty, but has yet to withdraw all its military forces from Moldova, as Russia committed to do at the 1999 OSCE Summit in Istanbul;

Whereas Russia made virtually no progress in 2004 toward its commitment to withdraw its military forces from Moldova;

Whereas Moldova has called for a genuinely international peacekeeping force to replace the Russian forces, and insists on the

implementation by Russia of its commitment to withdraw its remaining military forces from Moldova;

Whereas Secretary of State Colin Powell stated at the December 2004 OSCE Ministerial in Sofia, Bulgaria, that ''Russia's commitments to withdraw its military forces from Moldova, and to agree with Georgia on the duration of the Russian military presence there, remain unfulfilled. A core principle of the CFE Treaty is host country agreement to the stationing of forces. The United States remains committed to moving ahead with ratification of the Adapted CFE Treaty, but we will only do so after all the Istanbul commitments on Georgia and Moldova have been met. And we stand ready to assist with reasonable costs associated with the implementation of those commitments.'';

Whereas since June 2004, Russia has called for the closure of the OSCE Border Monitoring Operation (BMO), the sole source of objective reporting on border crossings along the border between Georgia and with the Russian republics of Chechnya, Dagestan, and Ingushetia;

Whereas OSCE border monitors took up their mission in Georgia in May 2000, and prior to the failure to extend the mandate for the BMO in December 2004, OSCE border monitors, who are unarmed, were deployed at nine locations along that border;

Whereas the current rotation of the BMO includes 65 border monitors from 23 countries, including Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Croatia, the Czech Republic, Estonia, Finland, France, Hungary, Ireland, Lithuania, Macedonia, Moldova, Poland, Romania, Russia, Slovakia, Turkey, Ukraine, the United Kingdom, and the United States;

Whereas at the December 2004 OSCE Ministerial, Russia blocked renewal of the mandate for the BMO in Georgia;

Whereas Russia has stated that the BMO has accomplished nothing, but it has in fact accomplished a great deal, including observing 746 unarmed and 61 armed border crossings in 2004 and serving as a counterweight to inflammatory press reports;

Whereas in response to Russian complaints about the cost-effectiveness of the BMO, the OSCE agreed in December 2004 to cut the number of monitors and thereby reduce the cost of the BMO by almost half;

Whereas the BMO began shutting down on January 1, 2005;

Whereas the staff of the BMO is now dismantling facilities and is not performing its mission;

Whereas the shutdown of the BMO will become irreversible in the second half of March 2005 and is currently scheduled to be completed by May 2005;

Whereas the United States has reiterated its disappointment over the failure of the Permanent Council of the OSCE to reach consensus on renewing the mandate of the BMO, despite request of Georgia, the host country of the BMO, that the OSCE continue the border monitoring operation, and the consensus of all states but one to extend the mandate for the BMO; and

Whereas United States Ambassador to the United States Mission to the OSCE, Stephan M. Minikes, said in a statement to the OSCE Permanent Council in Vienna on January 19, 2005, that ''we believe that the closure of the BMO would remove a key source of peaceful relations and of objective reporting on events at the sensitive border and increase the likelihood of heightened Russia-Georgia tensions.'': Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States should—

(1) urge Russia to live up to its commitments at the 1999 Organization for Security and Cooperation in Europe (OSCE) Summit in Istanbul regarding Georgia and Moldova;

(2) in cooperation with its European allies, maintain strong diplomatic pressure to permit the OSCE Border Monitoring Operation (BMO) in Georgia to continue; and

(3) if the BMO ceases to exist, seek, in cooperation with its European allies, an international presence to monitor objectively border crossings along the border between Georgia and the Russian republics of Chechnya, Dagestan, and Ingushetia.

NATIONAL SAFE PLACE WEEK

Mr. MCCONNELL. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to consider S. Res. 71.

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

The legislative clerk read as follows:

A resolution (S. Res. 71) designating the week beginning March 13, 2005 as National Safe Place Week.

The PRESIDING OFFICER. Is there objection?

The Senator from Illinois.

Mr. DURBIN. I will not object, but I ask unanimous consent to be added as a cosponsor to this resolution.

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

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

Mr. MCCONNELL. I ask unanimous consent that the Craig amendment be agreed to, the resolution, as amended, 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 amendment (No. 139) was agreed to as follows:

(Purpose: to strike the request for a Presidential proclamation in the National Safe Place Week resolution)

In Section (2), strike ''requests that the President issue a proclamation calling'' and replace with ''calls''.

The resolution (S. Res. 71), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 71

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term ''safe places'' at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and nonprofit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 41 states and more than 14,000 locations have established Safe Place programs;

Whereas more than 75,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 13 through March 19, 2005 as ''National Safe Place Week'' and

(2) calls upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

EXPANDED MUSEUM COMPLEX AT YAD VASHEM

Mr. MCCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 79 submitted earlier today by Senators CORZINE and LAUTENBERG.

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

The legislative clerk read as follows:

A resolution (S. Res. 79) expressing the sense of the Senate in marking the dedication on March 15, 2005, of the expanded museum complex at Yad Vashem, the Holocaust Martyrs and Heroes Remembrance Authority in Israel, in furtherance of Yad Vashem's mission to document the history of the Jewish people during the Holocaust, to preserve the memory and story of each of the victims, impart the legacy of the Holocaust to future generations, and recognize the Righteous Among the Nations.

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

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 79) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 79

Whereas 6,000,000 Jews were slaughtered in the Holocaust solely because of the faith into which they were born;

Whereas the Holocaust is seared into the world's memory as the quintessential expression of the evil of anti-Semitism;

Whereas Yad Vashem has become the world's university devoted to exposing the evil of anti-Semitism;

Whereas Yad Vashem's archives contain the largest and most comprehensive repository of material on the Holocaust in the world, containing 62,000,000 pages of documents, nearly 267,500 photographs, thousands of films and videotaped testimonies of survivors, and the Righteous Among the Nations (non-Jews who risked their lives to save Jewish people during the Holocaust), all accessible to the public;

Whereas those archives are the witness to both inexplicable acts of cruelty and daily acts of courage;

Whereas the history of the Holocaust, as embodied at Yad Vashem, represents the depths to which humanity can descend and the heights to which it can soar;

Whereas to ensure that Holocaust commemorations in future generations among both Jews and non-Jews have relevance and meaning, Yad Vashem has undertaken an extraordinary expansion of its facilities;

Whereas the centerpiece of this expansion is the new Holocaust History Museum building designed by world-renowned architect Moshe Safdie;

Whereas a central role in bringing the Holocaust History Museum to fruition was played by Holocaust survivor Joseph Wilf of New Jersey and his family;

Whereas through this new museum, Yad Vashem honors the lives of the victims and the Righteous Among the Nations in perpetuity;

Whereas the unique buildings and archives of Yad Vashem ensure that we, our children, and their children will never forget; and

Whereas the Israeli Knesset established Yad Vashem in 1953, founded on the biblical injunction set forth in Isaiah, chapter 56, verse 5: ''And to them will I give in my house and within my walls a memorial and a name (a 'yad vashem') . . . an everlasting name which shall not perish,'' and, for more than 50 years, Yad Vashem has steadfastly fulfilled this purpose: Now, therefore, be it

Resolved, That the Senate recognizes—

(1) Yad Vashem as a trustee of the World's conscience, so that the meaning of ''never again'' becomes the living foundation of our collective humanity; and

(2) that March 15, 2005, the date of the dedication of Yad Vashem's expanded facilities, is a date of historical significance that will be remembered as such by future generations.

HONORING THE LIFE OF FERN HOLLAND

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 80, submitted earlier today by Senators LANDRIEU and MURKOWSKI.

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

The legislative clerk read as follows:

A resolution (S. Res. 80) honoring the life of Fern Holland and expressing the deepest condolences of the Senate to her family on their loss.

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

Ms. LANDRIEU. Mr. President, I rise today to mark the anniversary of the death of a young woman whose courage and willingness to help others should inspire us all. Fern Holland, who was murdered near the Iraqi city of Karbala at the age of 33 a year ago today, lived her life to create the most equal and just global society obtainable. In light of International Women's Day, which was yesterday, I think it is only fitting that we honor the life of someone who led the fight to protect women throughout the world. Fern Holland realized the importance of helping others early in her life, which is exemplified by the path she chose.

There are hundreds of people whose lives have been touched by Fern Holland and I believe her legacy will live long beyond her years on Earth. In the January before her death Holland wrote in an e-mail to her former boss, Tulsa lawyer Stephen Rodolf. ''I love the work and if I die, know that I'm doing precisely what I want to be doing—working to organize and educate human rights activists and women's groups.

I urge my colleagues to remember Fern Holland when they have lost the strength to continue to work for the good of all people. We must diligently work to sustain the passion Fern Holland possessed. As a living memorial to her, I challenge each of my colleagues to continue to work for a better future for all people, particularly those without their own voice. I would like to extend my deepest sympathy to her family who are feeling this loss more than anyone else.

I urge my colleagues to support this resolution and use this day as a time to remember Fern Holland's extraordinary life and to use her example to recommit ourselves to the better good of all people.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, that any statements relating thereto be printed in the RECORD, without any intervening action or debate.

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

The resolution (S. Res. 80) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 80

Whereas the Senate remembers with great sadness the murder of Fern Holland near the Iraqi city of Karbala at the age of 33 on March 9, 2004;

Whereas Fern Holland, born in Bluejacket, Oklahoma, on August 5, 1970, lived her life committed to creating the most equal and just global society possible;

Whereas Fern Holland graduated with honors in psychology at Oklahoma University and actively sought to help the world through caring for children dying of nuclear-related diseases in Russia and teaching kids in a squatter camp in South Africa;

Whereas in the spring of 2000, Fern Holland worked for the Peace Corps as a human rights legal advisor in West Africa;

Whereas in 2003, Fern Holland went to investigate alleged human rights violations for the American Refugee Committee at a refugee camp in Guinea where she established a legal clinic to seek justice for victims of human rights violations, and which, at the time of her death in 2004, had handled 118 cases on behalf of victims of human rights violations;

Whereas in May 2003, Fern Holland went to Iraq as a United States Agency for International Development employee to work for women's rights;

Whereas in Iraq, Fern Holland organized human rights groups, opened 6 women's centers in south Baghdad, and acted as a strong advocate for Iraqi women's rights;

Whereas after Fern Holland's death, leading feminists from the National Organization for Women, the Feminist Majority Foundation, and the National Council of Women's Organizations issued statements praising her work;

Whereas residents of the refugee camp in Guinea renamed the legal clinic Fern Holland established the ''Fern Holland Legal Aid Clinic of Nzerekore'';

Whereas the high school Fern Holland attended in Miami, Florida observed a moment of silence and then discussed a memorial to honor her;

Whereas the Cherokee Nation honored Fern Holland by passing a resolution saying she ''died as a warrior'';

Whereas Fern Holland was posthumously named a Heroic Oklahoman on April 7, 2004, by Governor Brad Henry; and

Whereas Fern Holland devoted her brief life to promoting her belief in basic human rights and the rule of law: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that, in Fern Holland, the World has lost one of its most devoted and hard working human rights activists;

(2) honors Fern Holland in her extreme dedication to making the world a better place; and

(3) expresses its deep and heartfelt condolences to the family of Fern Holland on their loss.

RECOGNIZING CONTRIBUTION OF CHRIS LEDOUX TO COUNTRY MUSIC

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 81, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 81) recognizing the contribution of Chris LeDoux to country music.

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

Mr. THOMAS. Mr. President, I rise today to pay tribute to the life and memory of a great singer/songwriter, rodeo champion and true cowboy, Chris LeDoux. Sadly, Chris passed away on March 9 at the age of 56 in Casper, WY.

Chris was a loyal son, devoted husband and loving father. As a member of an air force family, Chris lived in many places throughout his childhood. He finally found his home in Wyoming while a sophomore in high school. In 1972, he married his lovely wife Peggy in Kaycee, WY, where he eventually built his ranch and fathered five wonderful children.

Chris was a cowboy through and through. He began riding in junior rodeos when he was only 13. He tried his hand at several rodeo events, but before too long, it became apparent he was best on bareback broncs. After winning the Wyoming State High School Bareback Riding Championship and the National Intercollegiate Bareback Riding Championship, he joined the rodeo circuit full time. This choice brought many injuries and tough days on the road, but all his hard work paid off in December of 1976 when he won the world championship title for bareback bronc riding at the National Rodeo Finals in Oklahoma City.

While on the rodeo circuit, Chris wrote songs about cowboys and the rodeo life he was leading. His songs were filled with both his love of music and his love of the West. In past interviews, Chris expressed that next to family, freedom was his most valued asset.

Just as he cherished the freedom of his western life, Chris was adamant about his musical freedom. He was determined to produce music in his own way rather than be ''owned by a big company.'' By 1989, Chris had released 22 albums, mostly cassette tapes produced by his parents that he sold at concerts and rodeos. That same year, Garth Brooks had a hit with, ''Much Too Young,'' which included a line about ''a worn-out tape of Chris LeDoux.'' Chris soon became the country star he was always meant to be.

Chris LeDoux was not only a world class entertainer, he was a friend. My wife Susan fondly recalls his great love for his family and his warm smile. He will be greatly missed by his family, friends and his loyal fans.

Mr. MCCONNELL. 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. 81) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 81

Whereas Chris LeDoux, a former rodeo world champion in bareback riding and country music star, died on March 9, 2005;

Whereas Chris LeDoux was born in Biloxi, Mississippi, in 1948;

Whereas Chris LeDoux won the Wyoming State Rodeo Championship in high school, continued riding in college, earning a rodeo scholarship, and rode professionally, winning the bareback championship at the National Rodeo Finals;

Whereas Chris LeDoux made important contributions to the country music community, through songs such as ''Whatcha Gonna Do With a Cowboy'' and ''Much Too Young to Feel this Damn Old'';

Whereas Chris LeDoux worked with well-known artists throughout his career, such as Garth Brooks and Charlie Daniels: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the contribution of Chris LeDoux to country music;

(2) has heard with profound sorrow and deep regret of the death of Chris LeDoux; and

(3) directs the Secretary of the Senate transmit enrolled copies of this resolution to the House of Representatives and the family of Chris LeDoux.

ORDERS FOR FRIDAY, MARCH 11, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes is business today, it adjourn until 9:30 a.m. tomorrow, Friday, March 11. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

PROGRAM

Mr. MCCONNELL. Mr. President, for the benefit of our colleagues, tomorrow the Senate will be in a period of morning business. As I announced earlier, there will be no rollcall votes during tomorrow's session. The next vote will occur Monday afternoon around 5:30 p.m.

A few moments ago, we completed action on the bankruptcy bill. I want to particularly thank all of our colleagues for the work on the bill and, in particular, Senator GRASSLEY, Senator HATCH, Senator SESSIONS, and others on both sides of the aisle who have been working on this legislation for, lo, these many years—7 or 8 years, I was told by Senator BIDEN a while ago.

Next week, we will be considering the budget resolution. We will have long, long evening sessions, and many, many rollcall votes throughout the week.

I ask, on behalf of myself and the majority leader, for Senators to make themselves available throughout the week. And I particularly want to emphasize that next Friday, the end of the week, could be a long day. I want to let all Members know there is an overwhelming likelihood that Friday will be a full day. Members should expect to be here throughout the day next Friday. We will go up into the evening. It will be an unusual Friday. We don't have many of those in the course of a year. But next Friday will be an unusual Friday, and people should make plans accordingly.

Mr. DURBIN. Mr. President, if the Senator will yield, I would like to say on behalf of those who didn't support the bankruptcy bill that, in all fairness, I think it was a spirited and a very positive debate, during the course of the debate for over 2 weeks. But that really boiled down to about 6 or 7 days. We entertained 30 amendments to the bankruptcy bill. Not one amendment went on extraordinarily long. Members took a limited amount of time, expressed themselves, debated quickly and thoroughly, and voted.

I hope that we can continue to follow that model. I think, as I have said, we got perilously close to debate in the U.S. Senate, which hardly ever happens around here. I hope that we can continue along those lines in the future.

I thank the Senator from Kentucky for yielding.

Mr. MCCONNELL. Mr. President, if I could just say to my friend, I couldn't agree more. I think the debate was handled very nicely. Members got an opportunity to have their say, to get their votes, and the Senate has done itself proud. In spite of the mixed views about the outcome, the Senate did itself proud with the first two bills this year, and I hope it is a good recipe for the future.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:53 p.m., adjourned until Friday, March 11, 2005, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate Thursday, March 10, 2005:

DEPARTMENT OF HOMELAND SECURITY

MICHAEL JACKSON, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.