At the request of Mr. Hagel, the name of the Senator from West Virginia (Mr. Byrd) was added as a cosponsor of S. 386, a bill to direct the Secretary of State to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity in developing countries, while promoting economic development, and for other purposes.

At the request of Mr. Allen, his name was added as a cosponsor 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.

At the request of Mr. Craig, the names of the Senator from Louisiana (Mr. Vitter) and the Senator from Louisiana (Ms. Landrieu) were added as cosponsors of S. 397, supra.

At the request of Ms. Snowe, the name of the Senator from Georgia (Mr. Isakson) was added as a cosponsor of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

At the request of Mr. Conrad, the name of the Senator from Montana (Mr. Binkins) was added as a cosponsor of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

At the request of Ms. Landrieu, the names of the Senator from Michigan (Ms. Stabenow), the Senator from Colorado (Mr. Salazar), the Senator from Louisiana (Mr. Vitter), the Senator from Pennsylvania (Mrs. Bacon), the Senator from Arkansas (Mrs. Lincoln) and the Senator from Pennsylvania (Mr. Santorum) 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.

At the request of Mr. Alexander, the names of the Senator from Virginia (Mr. Allen), the Senator from New Jersey (Mr. Corzine), the Senator from Nebraska (Mr. Nelson) and the Senator from Michigan (Ms. Stabenow) were added as cosponsors of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

At the request of Ms. Specter, the name of the Senator from North Dakota (Mr. Dorgan) was added as a cosponsor of S. Res. 56, a resolution designating the month of March as Deep- Vein Thrombosis Awareness Month, in memory of journalist David Bloom.

By Mr. McConnell (for himself and Mr. Bond): S. 414. A bill to amend the Help America Vote Act of 2002 to protect the right of Americans to vote through the prevention of voter fraud, and for other purposes; to the Committee on Rules and Administration.

Mr. McConnell. Mr. President, I rise today to introduce the Voter Protection Act of 2005, and I am pleased to be joined again by my good friend from Missouri, Senator Bond. I also acknowledge the deep interest and expertise of the occupant of the chair in this important subject of how we have increasingly honest elections in our country.

In the wake of the 2000 election, as chairman of the Rules and Administration Committee, and then its ranking member, Senators Bond, Dodd, and I worked together to address the problems brought to light in the 2000 elections. In January of 2001, I introduced the first of what would become several election reform bills. Nearly 2 years later, all the hard work and long hours paid off with the President of the United States signing the Help America Vote Act of 2002, commonly referred to as HAVA.

This legislation passed with near unanimous support in both Chambers. HAVA set forth several minimum standards for States to meet and was coupled with a new Election Assistance Commission to provide advice and distribute $3 billion to date. The goal was and is to make it easier to vote and harder to cheat.

But much more needs to be done. The 2004 elections were the first conducted under HAVA. There are reports of many successes attributable to HAVA, including a new Cal-Tech/MIT study, which found a decrease in the residual vote rate, or ballots that did not record a vote for President. Further, there were new requirements for identification while registering or, at the polls, new voting technology, state-wide databases, and a broad Federal requirement for the casting of provisional ballots.

HAVA was a tremendous success, but all of the cosponsors were careful to avoid a complete Federal takeover of elections. As was stated by prominent election expert Doug Lewis, after conducting elections for over 200 years, State and local officials didn't become stupid in just one election. Throughout the bill, we remained respectful of the States rights and left methods of implementation to the discretion of States.

Today, we bring before this body a new piece of legislation which builds upon the successes of HAVA and clarifies some of the misinterpretations that occurred in the last election. This bill provides State and local officials more tools to ensure every eligible voter casts their vote, but make sure it is counted only once.

First, the most important part of this election process is an accurate and secure registration. This legislation clarifies several provisions related to ensuring that those who register are legally entitled to do so, so do so only once, and in only one State. Further, we address the problem brought about by the registration database which dumped impossible numbers of new registrations on the last day of registration. The bill ensures that only real-life, eligible Mary Poppins registers to vote.

Second, the process of actually casting a ballot is sacred to all Americans. The legislation will ensure accurate poll lists and photo identification at the polls, and will reaffirm HAVA's goal of permitting State law to govern casting provisional ballots. That's right, she can show identification and vote—but just once.

Third, grant money will be available to pay for photo identification for those who don't have one or cannot afford one. The Election Assistance Commission will conduct a pilot program for the use of indelible ink at the polls, reminiscent of the Iraqi elections on January 30. We were all moved by the picture we saw from the Iraqi elections of Senator Gramm proudly showing their ink-sustained fingers. Aside from being an act of national pride, it was also an act to ensure that all those who voted did so only once.

Lastly, the 2004 elections saw new tactics which must be addressed by new criminal penalties for buying and conspiring to buy voter registrations. Further, the destruction or damaging of property with intent to impede voting is something that must be prosecuted.

Again, I am proud to have been the Senate Republican sponsor of the Help America Vote Act of 2002 and believe it has and will continue to improve the conduct of elections in this country. But much more needs to be done. The Voter Protection Act of 2005 builds upon that important piece of legislation to combat voter fraud and ensure the integrity of the entire election process.

I know Senator Bond, a cosponsor, is on the way to the floor. I commend him for his important contribution to HAVA. I repeat my earlier comments about the occupant of the chair and his expertise and interest in this issue. We look forward to working with both of them to advance a piece of legislation for America that would make it easier to vote and harder to cheat.

I yield the floor.

Mr. Bond. Mr. President, I rise today to join with my colleague Senator McConnell in introducing the
Voter Protection Act of 2005. This legislation builds upon the progress made by the Help America Vote Act toward our goal of making it easier to vote and harder to cheat, while addressing some additional issues that came to light during the previous election.

This legislation will clarify the intent of our previous bill and try to alleviate some of the administrative burdens and misguided policies placed on dedicated, hard-working election workers by previous congressional intrusions into the State functioning of running elections.

Make no mistake about it, record numbers of Americans went to the polls in 2004. The overwhelming number of Americans were greeted by informed, dedicated, and properly trained election workers and were able to cast their ballot in a timely manner and in a secure environment. In Missouri, my home State, the elections were extremely well run. Large numbers of voters were accommodated at the polls in a timely fashion, and very few questions have been raised about administration or integrity.

I believe our recent enactment of HAVA, the Help American Vote Act, helped in part because there was increased funding to assist States and localities to administer their elections. I might add that once again Missouri voters voted on punch cards. Contrary to the boogeyman of hanging chads and other problems we heard about in the past, punch cards have served the voters of Missouri well, proving that trained poll workers, coupled with informed voters, can participate in clean and fair elections using punchcard voting machines.

I live in Audrain County, MO, which is a rural county with a wide diversity. It is very average and representative, although I think it is an outstanding county. I asked the county clerk: How many problems have you had with these punchcard machines? We have had a whole range of voters, a very wide diversity. She told me in her memory and the memory of those in the county clerk’s office, they had never had a single problem with hanging chads or punchcard machines.

Some people are saying the Help America Vote Act required getting rid of punchcard machines. It did not do that. Let’s be clear, that is not required by the Help America Vote Act.

The deadlocking up of precint systems in Missouri was not the case everywhere. I continue to have concerns about the registration process and voter registration lists. Election officials are still laboring under an unnecessarily burdensome system heaped upon them by the motor voter bill. Motor voter required States to accept anonymous mail registration cards without supporting documents and voter registration cards from election drives. Motor voter prohibited authentication of registration cards by making it extremely difficult for names to be removed from voter rolls, such as Mickey Mouse, the deceased, or those who had left the State years before. That is why to many of us, motor voter had become auto-fraud, and we took steps in the Help America Vote Act to change that.

The evidence is still overwhelming that this poor policy continues to result in burdens on our election officials, with registration lists being bloated and inaccurate but limited recourse for election officials to address the situation. All this makes it more difficult to run clean, fair, and accurate elections.

The Help America Vote Act required minimum identification for first-time voters who take advantage of the mail-in voter registration procedures. While the law is clear, some States chose to find ways around this reasonable requirement. This bill makes it clear that voters who do not register before a government official in person will have to provide the ID requirement. We heard reports of partisan election workers who brought in bundles of voter registration cards and when they told the governmental election officials they had seen the voter ID, those cards were accepted. Anybody who would accept that ought to be buying the 14th Street bridge. To say somebody who has been a registered voter and is partisan is going to fulfill the governmental requirements is a stretch too far.

Furthermore, in some Federal elections, I think it is past time to go to a full ID provision. So this legislation requires voters in Federal elections to present identification at the polls while creating a program to ensure that all voters have access to an ID if they cannot afford one.

We now ask our citizens to provide a photo ID for so many tasks of everyday life. To provide it once more for election officials on election day seems a small request in order to help ensure our elections are fair and accurate.

If a person has a photo ID and cannot afford to procure one, our bill provides the requirement and the resources to ensure that one is provided.

Let’s make sure every legal vote gets counted, and only the legal votes and only one vote per person, only one vote per person. No dogs, please.

The practice of dropping off registration cards in bulk at the registration deadline continues. It is proving to be unworkable and is eliminating voters who take advantage of the mail-in registration.

Our State law made less sense. It is simply not reasonable to tell some voter fraud proponent to go to jail, spending time in the cells, we are not going to have the effect this bill and our previous bill anticipated.

We need to clean up the registration process by permitting States to use Social Security numbers. I think this bill brings some sense to voter rules by clarifying the provision in motor voter for name removal. The bill also includes a provision for dealing with a re- issuance of voter registration cards that are incomplete.

We found in the past, if you did not specifically indicate you were a U.S. citizen, the courts refused to prosecute those knowing they were not eligible to vote because the State could not prove it; they could not be prosecuted. Now there is a specific requirement that you indicate you are a U.S. citizen, eligible to vote. If you do not do that, the card should not be accepted, and if you falsify the registration card, you are a U.S. citizen, you ought to be prosecuted.

As we expressed throughout the debates on Help America Vote Act, minimum standard requirements for elections are to be implemented by the State. On provisional voting, the language is explicit. Questions on the implementation of provisional balloting are for State legislators and election officials to decide. But as is too often the case in this country, what cannot be changed through legislation will be pursued in the courtroom. Some 65 lawsuits were pursued to overturn decisions to preserve the precinct system used at the State level. This was a conscious effort to screw up the elections. Fortunately, the courts got it right. They overruled them 65 times. But there will be more litigation. Therefore, this legislation clarifies further the clear language of HAVA that the decision on the precinct system and the decision on the polling place for voters is a State question.

The goal of the lawsuits, as I said, seemed to introduce complete chaos which would have ensued were voters allowed simply to vote anywhere they wanted. Additionally, those voters would not have been able to vote in local elections and balloting initiatives. The purpose of the suits did not make sense, but they were filed anyhow. The arguments for throwing out State law made less sense. It is simply not reasonable to tell some voter fraud proponent to go to jail, spending time in the cells, we are not going to have the effect this bill and our previous bill anticipated.
complain later that the number of election machines at a polling place was inadequate.

Many people lodging this complaint also complained it rained on election day. Sorry, we cannot change that by law. The rain might not be eva-

tuated accordingly. Among other things, the precinct system allows election of-

icials to plan for election day, assign voters to voting places in manageable numbers, and dispatch the proper level of resources.

One again, after election day, the newspapers were filled with stories pointing out irregularities on election day. The election day problems have grown out of bloated and inaccurate voting lists and sloppy registration procedures. The stories clearly establish-

that sloppy laws, poor lists, and chaos at the polls invite efforts to cheat on election day. That is unacceptable to voters and to candidates and people who depend upon a free, fair system of democracy. If a voter has his or her vote canceled by a vote that should never have been cast, whether cast by fraud or ineligible voter, he or she has lost the civil right to be heard and to have the vote counted. It is a disservice to the dignity of the voter. Also, there is a grave offense to the candidates who spend countless amounts of their time and their supporters' resources on elections.

Our goal should be elections that are free of suspicion and cynicism about the results. There are steps that remain to be taken to ensure that elec-

tions are conducted in a sound and secure manner so that the integrity of the ballot box remains beyond doubt. These simple steps will begin to clean up the mess created in the registration process, while taking away the remains of enticements to game the system.

I look forward to the debate on the floor about these reasonable measures. I commend the majority leader for his work on this effort and look forward to discussing this and pursuing it with our colleagues.

Mr. President, I yield the floor.

Mr. MCCONNELL. Mr. President, if I can very briefly say to my good friend and colleague from Missouri, it is a pleasure to team up with him once again in our pursuit of better elections in this country and to report to him on the prosecution front there actually was a conviction. I know the occupant of this Chair is interested in this as well. There actually was a conviction in my State for vote fraud—two of them—over the last 6 months. We will see whether that has an impact on hab-

its of many decades that exist in my State and I know in several parts of the State of Missouri as well. I congratulate the Senator for his statement.

Mr. DAYTON. Mr. President, I salute my very good colleague, Senator—Mr. MCCONNELL and Senator BOND, for their leader-

ship in this very important area, along with Senator DODD. They spear-

headed the improvements that were made to our election, registration, and voting procedures in the aftermath of the 2000 election difficulties. Clearly, the experience over last November’s election shows that we have more work before us that has to be bipartisan. They have given it strong leadership, combined with others, and I look for-

ward to being part of that as a member of the Senate Rules Committee. Senator LOTT, the chairman of that com-

mittee, will hold hearings in the very near future on this and other prop-

osals. I believe it is imperative that we get that process underway so, as Senator BOND knows, every American knows they have the right to vote, and vote expeditiously, and every one of those votes is going to be counted.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 414

Be it enacted by the Senate and House of Rep-

teratives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS. (a) Short Title. —The Act may be cited as the "Voter Protection Act of 2005".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—VOTER REGISTRATION AND MAINTENANCE OF OFFICIAL LISTS OF REGISTERED VOTERS
Sec. 101. Requirements for voters who register other than in person with an officer or employee of a State or local government enti-

ty.
Sec. 102. Removal of registrants from voting rolls for failure to vote.
Sec. 103. Use of social security numbers for voter registration and election administration.
Sec. 104. Synchronization of State data-bases.
Sec. 105. Incomplete registration forms.
Sec. 106. Requirements for submission of registration forms by third parties.

TITLE II—VOTING
Sec. 101. Voter rolls.
Sec. 203. Identification requirement.
Sec. 204. Clarification of counting of provision-

al ballots.
Sec. 205. Applications for absentee ballots.
Sec. 206. Pilot program for use of indelible combined ink.

TITLE III—CRIMINAL PENALTIES
Sec. 301. Penalty for making to voters register.
Sec. 302. Penalty for conspiracy to influence voting.
Sec. 303. Penalty for destruction of property with intent to impede the act of voting.

SEC. 2. FINDINGS. Congress makes the following findings:

(1) There is a need for Congress to encour-

age and enable any eligible and registered American to vote.

(2) There is a need for Congress to protect the franchise of all Americans by rooting out the potential for fraud in the electoral sys-

tem.

(3) There is a need for Congress to provide States the tools necessary to protect against

fraud in multiple, fictitious, and ineligible voter registrations.

(4) There is a need for Congress to ensure completed and valid voter registration forms are needed for proof that dis-

enfranchise voters who believe they have been properly registered.

(5) There is a need for Congress to provide States the tools necessary to vote dis-

enfranchise voters who believe they have been properly registered.

(6) There is a need for Congress to ensure the accuracy, integrity, and fairness of every American election.

(7) There is a need for Congress to ensure the protection of every American’s franchise is carried out in a uniform and nondiscrimin-

atory manner.

TITLE I—VOTER REGISTRATION AND MAINTENANCE OF OFFICIAL LISTS OF REGISTERED VOTERS

SEC. 101. REQUIREMENTS FOR VOTERS WHO REGISTER OTHER THAN IN PERSON WITH AN OFFICER OR EMPLOYEE OF A STATE OR LOCAL GOVERNMENT ENTITY.

(a) In General.—(1) Application of requirements to voters registering other than in person—(A) Paragraph (A) of section 303(b)(1) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(1)(A)) is amended to read as follows:—

"(i) each State and jurisdiction shall be re-

quired to ensure that any individual who fails to register to vote in a jurisdiction in a manner other than appearing in person before an officer or employee of a State or local government entity; and",—

(B) Paragraph (B) of section 303(b)(1)(A) is amended by inserting at the end the following:

"(ii) the provisions of subsection (b) shall be applicable to individuals who register to vote in a jurisdiction in a manner other than appearing in person before an officer or employee of a State or local government entity on and after January 1, 2006; and"

"(C) Applicability with respect to indi-

viduals who register other than in person.—Notwithstanding subparagraphs (A) and (B).—(i) each State and jurisdiction shall be re-

quired to comply with the provisions of sub-

section (b) with respect to individuals who register to vote in a jurisdiction in a manner other than appearing in person before an officer or employee of a State or local government entity on and after January 1, 2006; and

(ii) the provisions of subsection (b) shall apply to any individual who registers to vote in a jurisdiction in a manner other than appearing in person before an officer or em-

ployee of a State or local government on and after January 1, 2006.

(b) Effective Date.—(1) In General.—The amendments made by this section shall apply on and after January 1, 2006.

(2) CONFORMING AMENDMENTS.—(A) Paragraph (2) of section 303(d) of the Help America Vote Act of 2002 (42 U.S.C. 15483(d)(2)) is amended by inserting at the end the following new subparagraph:

"(C) Applicability with respect to indi-

viduals who register other than in person.—Notwithstanding subparagraphs (A) and (B).—(i) each State and jurisdiction shall be re-

quired to comply with the provisions of sub-

section (b) with respect to individuals who register to vote in a jurisdiction in a manner other than appearing in person before an offi-

cer or employee of a State or local govern-

ment entity on and after January 1, 2006; and

(ii) the provisions of subsection (b) shall apply to any individual who registers to vote in a jurisdiction in a manner other than appearing in person before an officer or em-

ployee of a State or local government on and after January 1, 2006.

The heading for paragraph (2) of section 303(d) of such Act is amended by striking "WHO REGISTER BY MAIL"
(a) IN GENERAL.—Section 203 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(a)(4)) is amended by striking “or” at the end of subparagraph (A), by inserting “or” at the end of subparagraph (B), and by adding at the end the following new subparagraph: 

“(C) a failure to vote in 2 consecutive general elections for Federal office; and”.

(b) CONFORMING AMENDMENT.—

(1) Section 303 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(b)) is amended by striking “roll for elections for Federal office on the ground that the registrar has failed to provide an absentee ballot for such election, for Federal office, on the ground that the registrar has failed to provide an absentee ballot for such election,”.

(2) Section 8(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(b)) is amended by striking “roll for elections for Federal office” and inserting “the voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall return the incomplete voter registration form to the applicant and provide the applicant with an opportunity to complete the registration form.”.

(3) REQUIREMENT FOR SUBMISSION OF REGISTRATION FORMS BY THIRD PARTIES.—Each State by the close of business on the day of the election in which such State shall be required to comply with the requirements of subsection (d) on and after January 1, 2006.**

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual who registers to vote on or after January 1, 2006.

SEC. 106. REQUIREMENTS FOR SUBMISSION OF REGISTRATION FORMS BY THIRD PARTIES.

(a) IN GENERAL.—

(1) The computerized list shall be in a form which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which the registrant has not notified the applicable registrar has sent a notice to the individual whose name appears on such form; and

(3) If, and to the extent that, any provision of Federal law enacted before the date of enactment of the Voter Protection Act of 2005 is inconsistent with the policy set forth in clause (i), such provision shall, on and after the date of the enactment of such Act, be null and void of no effect.”.

(b) CONSTRUCTION.—Nothing in this section or the amendment made by this section may be construed to supersede any privacy guarantee under any Federal or State law that applies with respect to a social security number.

SEC. 104. SYNCHRONIZATION OF STATE DATA—ELECTION ADMINISTRATION.

(a) IN GENERAL.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual who registers to vote on or after January 1, 2006.

SEC. 105. INCOMPLETE REGISTRATION FORMS.

(a) IN GENERAL.—Subparagraph (B) of section 303(b)(4) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(4)(B)) is amended to read as follows:

“(B) INCOMPLETE FORMS.—If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall return the incomplete voter registration form to the applicant and provide the applicant with an opportunity to complete the registration form.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual who registers to vote on or after January 1, 2006.

SEC. 106. REQUIREMENTS FOR SUBMISSION OF REGISTRATION FORMS BY THIRD PARTIES.

(a) IN GENERAL.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which such form was signed by the registrant.”.

(b) CONFORMING AMENDMENT.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which such form was signed by the registrant.”.

(c) REQUIREMENT FOR SUBMISSION OF REGISTRATION FORMS BY THIRD PARTIES.—Each State shall be required to comply with the requirements of subsection (d) on and after January 1, 2006.”.

(b) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.”.

(c) RETURN OF ABSENTEE BALLOTS.

“(a) IN GENERAL.—Except as provided in the Uniformed and Overseas Citizens Absentee Voting Act, each absentee ballot cast for a Federal office must be received by the State by the close of business on the day of the election in order to be counted as a valid ballot.

(b) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of subsection (a) on and after January 1, 2006.”.

(c) RETURN OF ABSENTEE BALLOTS.—

“(a) IN GENERAL.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which such form was signed by the registrant.”.

(b) CONFORMING AMENDMENT.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which such form was signed by the registrant.”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual who registers to vote on or after January 1, 2006.

SEC. 203. IDENTIFICATION REQUIREMENT.

(a) REQUIREMENT FOR VOTERS WHO REGISTER BY MAIL AND OTHER THAN IN PERSON.

(1) IN GENERAL.—

(2) CONTINUING REGISTRATION.

(3) REQUIREMENT FOR SUBMISSION OF REGISTRATION FORMS BY THIRD PARTIES.—Each State shall be required to comply with the requirements of subsection (d) on and after January 1, 2006.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual who registers to vote on or after January 1, 2006.”.

(c) RETURN OF ABSENTEE BALLOTS.

“(a) IN GENERAL.—Except as provided in the Uniformed and Overseas Citizens Absentee Voting Act, each absentee ballot cast for a Federal office must be received by the State by the close of business on the day of the election in order to be counted as a valid ballot.

(b) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of subsection (a) on and after January 1, 2006.”.

(c) RETURN OF ABSENTEE BALLOTS.—

“(a) IN GENERAL.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which such form was signed by the registrant.”.

(b) CONFORMING AMENDMENT.—

(1) The computerized list shall be in a format which allows for sharing and synchronization with other State computerized lists.

(2) More than 3 days after the date on which such form was signed by the registrant.”.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual who registers to vote on or after January 1, 2006.”.

SEC. 201. VOTER ROLLS.

(a) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 305 and 306 as sections 305 and 306, respectively, and by inserting after section 305 the following new section:

(b) CONFORMING AMENDMENT.—

“SEC. 304. VOTER ROLLS.

“(a) IN GENERAL.—If a State allows early voting or absentee voting for a Federal office, the registrar of such State shall ensure that the voter rolls at each polling location on the day of the election accurately and affirmatively indicate—

“(1) which individuals have voted prior to such day; and

“(2) which individuals have requested an absentee ballot for such election.”.
(A) in subparagraph (A)—
(i) by striking “part of such” and inserting “a requirement for a valid”;
(ii) by inserting “issued by a governmental entity” after “identification” in clause (i); and
(iii) by striking “current utility bill, bank statement, government check, paycheck, or other” in clause (ii) and inserting “recent”; and
(B) in subparagraph (B)(i), by striking “with such” and inserting “a requirement for a valid”.
(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals who register to vote on and after January 1, 2006.

(b) New Requirement for Individuals Voting in Person.—
(1) In General.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.), as amended by this Act, is amended by redesignating sections 306 and 307 as sections 307 and 308, respectively, and by inserting after section 307 the following new section:

SEC. 306. IDENTIFICATION OF VOTERS AT THE POLLS.
“(a) In General.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present a current valid photo identification issued by a governmental entity before voting.

“(b) Effective Date.—Each State shall be required to comply with the requirements of subsection (a) on and after January 1, 2006.”.

(2) Deadlining.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 1551 et seq.), as amended by this Act, is amended by striking “and 305” and inserting “and 306”.

(3) In General.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 1551 et seq.), as amended by this Act, is amended by redesignating sections 303(b) and 306.

(c) Funding for Free Photo Identifications.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 1551 et seq.) is amended by adding at the end the following:

“PART 7—PHOTO IDENTIFICATION

SEC. 297. PAYMENTS FOR FREE PHOTO IDENTIFICATIONS.
“(a) In General.—In addition to any other payments made under this subtitle, the Election Assistance Commission shall make payments to each State to enhance the issuance of registered voter’s free photo identification cards for purposes of meeting the identification requirements of sections 303(b) and 306.

“(b) Eligibility.—A State is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

“(1) a statement that the State intends to comply with the requirements of section 303(b) and section 306; and

“(2) a description of how the State intends to use the payment under this part to provide registered voters with free photo identification cards to meet the requirements of such sections.

“(c) Use of Funds.—A State receiving a payment under this part shall use the payment only to provide free photo identification cards to registered voters who do not have an identification card that meets the requirements of sections 303(b) and 306.

“(d) Amount of Payments.

“(1) In General.—The amount of the grant made to a State under this part for a year shall be equal to the product of—

“(A) the amount equal to—

“(i) the voting age population of the State (as reported in the most recent decennial census); divided by

“(ii) the total voting age of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

“SEC. 298. CLARIFICATION OF COUNTING OF PROVISONAL BALLOTS.

“(a) In General.—In addition to any other amounts authorized to be appropriated under this subsection, there are authorized to be appropriated $25,000,000 for fiscal year 2006 and such sums as are necessary for each subsequent fiscal year for the purpose of making payments under section 297.

“(b) Availability.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

“SEC. 204. CLARIFICATION OF COUNTING OF PROVISONAL BALLOTS.

“(a) In General.—Paragraph (4) of section 302(a) of the Help America Vote Act of 2002 (42 U.S.C. 15482(a)(4)) is amended by adding at the end the following new sentence: “For purposes of this paragraph, the determination of whether an individual is eligible under State law to vote shall take into account any provision of State law with respect to the polling site at which the individual is required to vote.”

“(b) Conforming Amendment.—

“(1) Paragraph (1) of section 302(a) of the Help America Vote Act of 2002 (42 U.S.C. 15482(a)(1)) is amended to read as follows:

“(1) An election official at the polling place shall—

“(A) notify the individual that the individual may cast a provisional ballot in that election; and

“(B) in the case of an individual who the election official asserts is not eligible to vote under State law because the individual is at an incorrect polling site, direct the individual to the appropriate polling site."

“(2) Paragraph (2) of section 302(a) of the Help America Vote Act of 2002 (42 U.S.C. 15482(a)(2)) is amended by striking “The individual” and inserting “Notwithstanding the requirement of paragraph (1)(B), the individual”.

“SEC. 205. APPLICATIONS FOR ABSENTEE BALLOTS.

“(a) In General.—Paragraph (4) of section 302(a) of the Help America Vote Act of 2002 (42 U.S.C. 15482(a)(4)) is amended by adding at the end the following new sentence:

“(4) An election official at the polling place shall—

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“SEC. 303. PENALTY FOR DESTRUCTION OF PROPERTY WITH INTENT TO IMPede THE ACT OF VOTING.

“(a) In General.—There are authorized to be appropriated for grants under this part $5,000,000 for fiscal year 2006 and such sums as are necessary for each succeeding fiscal year.

“(b) Availability.—Any amounts appropriated pursuant to the authority of this section shall remain available, without fiscal year limitation, until expended.”

“TITLE III—CRIMINAL PENALTIES

SEC. 301. PENALTY FOR MAKING EXPENDITURES FOR PERSONAL OR POLITICAL PURPOSES.

“(a) In General.—The Commission shall require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

“(b) Effective Date.—Each State shall be required to comply with the requirements of this section, on and after January 1, 2006.

“SEC. 302. PENALTY FOR CONSPIRACY TO INFLUENCE VOTING.

“(a) In General.—There are authorized to be appropriated for grants under this part $5,000,000 for fiscal year 2006 and such sums as are necessary for each succeeding fiscal year.

“(b) Availability.—Any amounts appropriated pursuant to the authority of this section shall remain available, without fiscal year limitation, until expended.”

By Mr. ROCKEFELLER:

S. 415. A bill to amend part A title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce legislation today know as the State Child-Well-Being Research Act of 2005. This bill is designed to enhance child well-being in every State by collecting data on a State-by-State basis to provide information to advocates and policy-makers.
about the well-being of children. Developing a set of indicators and measuring progress of child well-being deserves to be a priority.

My hope is to incorporate this important research initiative into the welfare reform package. I believe that the Senate should reauthorize our welfare program, known as Temporary Assistance to Needy Families, TANF, and we should do it this year.

Chairman Grassley’s interest in a bipartisan process is very encouraging.

In 1996, Congress passed bold legislation to dramatically change our welfare system, and I supported it. The driving force behind this reform was to promote work and self-sufficiency for families and to provide flexibility to States to achieve these goals. States have used this flexibility to design different programs that work better for family, State-specific data that can be used by policy-makers, researchers, and child advocates to assess the well-being of children. It would require that a survey examine the physical and emotional health of children, adequately represent the experiences of families in individual States, be consistent across States, be collected annually, articulate results in easy to understand terms, and focus on low-income children and families.

The proposed legislation will provide data for all States, including small rural States that cannot be covered under SIPP because the sample size is too small. A modest investment in this bill could offer State data for the twenty-three rural States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Iowa, Kansas, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oregon, South Dakota, Utah, Vermont, West Virginia, and Wyoming. Moreover, data from a cross-sectional survey would be available to State policy-makers on a far more timely basis than those of a national longitudinal study, a matter of months instead of years.

Further, this bill avoids some of the other problems that plague the current system by making data files easier to use and more readily available. As a result, the information will be more useful for policy-makers managing welfare reform and programs for children and families.

This legislation also offers the potential for the Health and Human Service Department to partner with several private charitable foundations, including the Annie E. Casey, John D. and Catherine T. MacArthur, and McKnight foundations, who are interested in forming a partnership to provide outreach and support to guarantee that the data collected would be broadly disseminated. This type of public-private partnership helps to leverage additional resources for children and families and increases the study’s impact. Given the tight budget we face, partnerships make sense.

I hope my colleagues will support this effort to learn about the well-being of our children in rural States. I look forward to the work to help us understand the needs of children and families and increases the study’s impact. Given the tight budget we face, partnerships make sense.

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By Mr. DORGAN (for himself and Mr. SHELBY):

S. 417. A bill to amend the Internal Revenue Code of 1986 to provide for a refundable wage differential credit for activated military reservists; to the Committee on Finance.

Mr. DORGAN. Mr. President, I rise today to introduce legislation, along with Senator SHELBY, to provide a financial safety net for the families of our young men and women who proudly serve in the Nation’s military reserve and National Guard.

Our country is demanding that our military reservists and members of the National Guard play a more crucial and sustained role in supplementing the active components of the Armed Forces than at any other time in our recent history. In response to the Iraq war and homeland security needs, the country has called up hundreds of thousands of our reservists and Guard members for extended tours of duty of up to 18 months.

Today, almost 184,000 National Guard members and reservists are on active duty. Military leaders expect the total number of reservists and Guardsmen on active duty for the war on terrorism to remain above 100,000 for the indefinite future.

Since September 11, 2001, more than 2,000 of North Dakota’s Guardsmen and reservists have been called to duty and placed in harms way around the globe. One of the issues I hear most often about from those service members and their families is how hard it is for them to make ends meet on their military incomes.

When Guard members or reservists are mobilized, it has an enormous impact not only on their lives, but also on the lives of their loved ones. In many cases when an individual is mobilized, his or her family may experience a serious loss of income. This is because the active duty military compensation often falls below what reservists earn in civilian income. In addition, some reservists experienced continuing financial losses after return to civilian life due to neglected businesses or professional practices.

These income losses are often exacerbated by the additional family expenses that are associated with military activation, such as the need for extra day care.

The Pentagon doesn’t track the number of reservist families who have to live on diminished incomes during deployment. But it is an early and significant problem. The Pentagon’s Reserve Forces Policy Board says that one-third of all mobilized Reserve component members earn less than their private sector and civilian salaries while on active duty. Our estimates are even higher. For example, 45 percent of reserve officers and 55 percent of enlisted members who were activated for the 1990 Gulf War reported income loss. And a 1998 survey of junior enlisted members of the California National Guard’s 40th Infantry Division showed that the great majority risked cutting their household income somewhere between 16 percent and more than 65 percent if they were called to active duty.

The most recent information on mobilization income losses from the year 2000. Some 41 percent of Guardsmen and reservists who were mobilized that year reported income losses ranging from $350 to more than $3,000 per month. Self-employed reservists reported an average income loss of $1,800 per month. Physicians and registered nurses in private practice reported an average income loss of as much as $7,000 per month.

Those were big losses. But when that survey was conducted in 2000, reservists were mobilized for an average of only 3.6 months. Today mobilizations of up to 14 to 18 months are common. So the cumulative impact of lost wages is much bigger.

The loss of income that reservists and Guardsmen incur when they are ordered to leave their good-paying private sector or civilian jobs to serve their country often creates an unmanageable financial burden that disrupts the lives of their families who are already trying to cope with the emotional stress and hardship caused by the departure of a beloved spouse, father or mother who has been ordered to active duty.

In the mid-1990s the Pentagon tried to deal with this problem by offering members of the National Guard and Reserve the opportunity to buy insurance to guard against their risk of being called to active duty and losing income. But the program sold coverage for income losses of up to $5,000 per month. Unfortunately, the program was poorly planned and executed, and Congress had to appropriate substantial money to bail out the program before it was terminated. Since then the private sector has not shown any interest in reviving the mobilization income insurance program. Thus, we need to find another way to deal with the issue. The solution I propose is one suggested by the Pentagon’s Reserve Forces Policy Board, that is, an income loss tax credit.

The legislation that Senator SHELBY and I are introducing provides a fully refundable, 100-percent income tax credit of up to $20,000 annually to a military reservist on active duty based upon the difference in wages paid in his or her private sector or civilian job and the military wages paid upon mobilization. For this purpose, a qualified reservist is defined as a member of the National Guard or Ready Reserve who is mobilized and serving for more than 90 days.

In conclusion, we owe a great deal to those who put on the uniforms and serve in the military in the most difficult of circumstances. We can never fully repay that debt. However, we can do much more to remove the immediate financial burden that many reserve and National Guard families experience when a family member is ordered to active duty. This legislation will provide those families with some much-needed financial assistance. I urge my colleagues in the Senate to support my efforts to get this tax relief enacted into law as soon as possible.

Mr. SHELBY. Mr. President, I rise today to introduce legislation with Senator DORGAN to provide a financial safety net for the families of our service members who proudly serve in our Nation’s military Reserve and National Guard.

Today, our National Guard and Reserve units are being called upon more than ever and are being asked to serve their country in a very different way than in the past. The Global War on Terror and the high operational tempo of our military require that our Reserve components play a more active role in the total force.

In the past, our Reservists were exactly what their name implied—a backup force called upon one weekend a month and two weeks a year. However, as the Cold War melted away, so did much of our military. Active Duty forces, the burden has fallen to the Reservists to “pick up the slack.”

Unlike any other time in our Nation’s history, we now depend heavily on our Reserve component and have called on many of them to participate in major deployments, including Operation Enduring Freedom and Operation Iraqi Freedom. These deployments have frequently necessitate extended tours of duty, many of them exceeding twelve months, for these citizen-soldiers.

These long tours and frequent activations have a profound and disruptive effect on the lives of these men and women and on the lives of their families and loved ones. Many of our reservists suffer a significant loss of income when they are mobilized—forcing them to leave often higher paying civilian jobs to serve their country. Such losses can lead to unexpected financial expenses associated with military activation, including the cost of long distance phone calls and the need for
additional child care. These circumstances create a serious financial burden that is extremely difficult for reservists’ families to manage. We can and should do more to alleviate this financial burden.

Previously, the Pentagon tried to address this problem by offering members of the National Guard and Reserve the opportunity to buy insurance to protect against income loss upon mobilization in the mid-1990s. The program sold coverage for income losses of up to $5,000 per month. Unfortunately, the program was poorly planned and executed, and Congress had to appropriate substantial money to bail out the program before it was terminated. Since then, the private sector has shown little interest in reviving the mobilization income insurance program even though the Reserve Forces Policy Board has sighted income protection as one of its top recommendations.

It is critical that we find another way to deal with the issue. Therefore, Senator DORGAN and I have proposed the Military Reserve Mobilization Income Security Act. This legislation would provide a completely refundable income tax credit of up to $20,000 annually to a military reservist called to active duty. The amount of the tax credit would be based upon the difference between wages paid by the reservist’s civilian job and the military wages paid upon mobilization. The tax credit would be available to members of the National Guard or Ready Reserve who are serving for more than 90 days and would vary according to their length of service.

Now is the time to recognize the service and sacrifice of the men and women who are in the Reserves. At a time when the Nation is once again calling them to active duty to execute the war in Iraq, fight the War on Terrorism, and to defend our homeland it is imperative that Congress recognize the vital role these soldiers play within our military and acknowledge that the success of our military depends on these troops.

I believe that what Senator DORGAN and I are doing with this bill is the least we can do for these men and women and their families. It is not too much to ask of our Nation and more importantly, it is the right thing to do.

By Mr. ENZI (for himself, Mrs. CLINTON, Mr. HAGEL, and Mr. SCHUMER):

S. 418. A bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today with my colleague from New York to introduce the Military Personnel Financial Services Protection Act of 2005. This bill is intended to protect our military personnel and their families from unscrupulous financial products. Over the past year, it has become increas-ingly clear to many that the lack of oversight in this area has allowed certain individuals to push high cost financial products on unknowing military personnel. This practice must be stopped. Our soldiers and their families deserve much better, especially during a time when they serve valiantly at home and overseas to protect our freedom.

The bill that we introduce today will halt completely the sale of a mutual fund-like product that charges a 50 percent load to military families. Currently, there are hundreds of mutual fund products available on the market that charge less than six percent. The excessive sales charges of these contractually based financial products make them susceptible to abusive and misleading sales practices. In addition, certain life insurance products are being offered to our service members disguised as mutual fund-like products. These insurance products provide very low death benefits while charging very high premiums, especially in the first few years. Many of these products are unsuitable for the insurance and investment needs of military families.

One of the major problems with the sale of insurance products on military bases is the confusion of whether state insurance regulators or military base commanders are responsible for the oversight of these investments. Typically, officers, non-commissioned officers, and military base commanders will bar certain sales agents from a military base only to have the sales agents show up at other military facilities. Since there is no record of the bar, State insurance regulators have been unable to have adequate oversight of the individuals.

The bill that we introduce today will solve that problem. It will state clearly that State insurance regulators have jurisdiction of the sale of insurance products on military bases.

The bill will also urge State insurance regulators to work with the Department of Defense to develop life insurance product standards and disclosures. The Department of Defense will keep a list of individuals who are barred or banned from military bases due to abuse or unscrupulous sales tactics and to share that list with Federal and State insurance, securities and other relevant regulators.

Finally, the legislation we are introducing today will protect our military families by preventing investment companies from issuing periodic payment plan certificates, the mutual fund-like investment product with extremely high first year costs. This type of financial sales agent is currently prohibited by securities regulators since the late 1960s. It should be noted that there are many upending financial and insurance companies that sell very worthwhile investment and insurance products to military families. They should be applauded for the fine job that they do in helping our military members and their families. This bill is targeted at the few who abuse the system and prey upon our military.

Congress is fully aware of the dangers faced by our military personnel in keeping our country safe from harm. Likewise, we must do all that we can to take care of our soldiers when they face the dangers of planning for their financial futures.

I urge my colleagues to take up this bill immediately so that we can help our men and women in the military and their families.

By Mr. KYL:

S. 419. A bill to amend the Internal Revenue Code of 1986 to modify the treatment of qualified restaurant property as 15-year property for purposes of the depreciation deduction; to the Committee on Finance.

Mr. KYL. Mr. President, today I am introducing legislation to make the 15-year depreciation recovery period for improvements to restaurant permanent, and to extend this treatment to cover new restaurant construction as well. Last year, in the American Jobs Creation Act of 2004 (Public Law 108–30), Congress set the tax recovery period for renovations and improvements made to existing restaurant buildings at 15 years, but this treatment only applies to property placed in service before the end of 2005. Legislation I am introducing today will permanently set the depreciation recovery period for new restaurant construction and for improvements to existing restaurants at 15 years. It simply makes no sense that the current law providing a 15-year life for improvements to restaurant properties expires at the end of 2005. Restaurants are businesses, and they need the certainty to plan investments several years in advance. Further, Congress should expand the treatment to apply to new construction, as well as to improvements.

Restaurants are high-volume businesses. Every day, more than half of all Americans eat out. Restaurants get more customer traffic and maintain longer hours than the average commercial business—many staying open 7 days a week. This tremendous amount of activity causes rapid deterioration in a restaurant building’s systems, from its entrances and lobbies to its floors, restrooms, and interior walls.

Restaurants improve and renovate constantly to accommodate the wear and tear of heavy customer traffic and to keep pace with changing consumer preferences. Clearly, a 35-year depreciation recovery period—which is what the recovery period will revert to after 2005—does not match the economic life for new restaurant buildings or for improvements to existing structures.

Moreover, permanently setting the depreciation recovery period at 15 years would energize significant economic activity. According to the National Restaurant Association, a 15-year depreciation recovery period for
new restaurant construction and improvements to existing properties would generate an additional $3.7 billion in cash flow for the restaurant industry over the next 10 years. If restaurants use just 25 percent of this influx of cash to expand and improve, the additional restaurants, the Restaurant Association study predicts that the 10-year economic impact would be $853 million.

I hope all of my colleagues will join me in this effort to bring certainty and a rational approach to death taxes to the restaurant industry so that restaurant owners can continue to expand their businesses and provide good jobs to American workers.

By Mr. KYL (for himself, Mr. NELSON of Florida, Mr. ALLARD, Mr. ALLEN, Mr. BURNS, Mr. INHOFE, Mr. TALENT, and Mr. THUNE):

S. 420. A bill to make the repeal of the estate tax permanent; to the Committee on Finance.

Mr. KYL. Mr. President, today I am pleased to introduce the Death Tax Repeal Permanency Act of 2005 along with Senator NELSON. This bipartisan legislation will make the death tax a thing of the past.

As we all know, Congress, working with President Bush, enacted bipartisan legislation in 2001 to phase out and end the death tax in 2010. Unfortunately, because we did not have the 60 votes we needed to avoid a filibuster by opponents of the cuts, we could not make the repeal permanent. Rather, under Senate rules, the cuts could only be extended for the term of the budget: 10 years. As a consequence, the death tax springs back to life in 2011, at its old rate of up to 60 percent and at its old exemption level of only $1 million. Senator NELSON and I understand that this tax structure is simply unworkable for families and family businesses. We agree that the best solution is to simply get rid of the death tax once and for all. That’s why we are introducing legislation today to make death tax repeal permanent.

Senator NELSON and I are joined in this effort by Senators ALLARD, ALLEN, BURNS, INHOFE, TALENT, and THUNE, and we have the full support of President Bush, who once again included permanent repeal of the death tax in his Fiscal Year 2006 budget proposal.

The death tax is an unfair, inefficient, economically unsound and, frankly, an immoral tax that should be removed from the tax code. A recent survey found that 58 percent of Americans believe the death tax is tax “completely unfair.” In contrast, only 10 percent of those surveyed said the same about sales taxes. Moreover, this view is shared by Americans across income levels and political parties: 61 percent of Americans making less than $30,000 a year believe the death tax is tax “completely unfair”; 89 percent of respondents who supported President Bush in the last election and 71 percent of respondents who supported his opponent in the last election label the death tax somewhat or very “unfair.”

And the death tax is unfair, first of all, to the decedent and to his or her heirs. We are talking about people who worked hard throughout their lives, perhaps start businesses, or perhaps buy homes in fast-growing metropolitan areas where real estate values are skyrocketing. Or it could be such a person owns a farm or just works hard in a company owned by others, but that person saves and invests and eventually accumulates a small but respectable nest egg. As you can see, the tax reaches far more than the “ultra-rich,” its intended targets when it was first imposed. The American dream is to be able to leave these assets to one’s children so that they might enjoy a better life than their parents. It is simply unfair and immoral for the government to take more than half of these assets at death.

Americans understand that the death tax is unfair because it falls on families when they have the least ability to make significant economic decisions: at the time they lose a loved one. Further, it is unfair because expensive tax planning can often significantly ease the effect of the death tax. If you have the money to hire the right lawyer, buy the large insurance policies that are needed, and do the proper planning, your family can be spared much of the financial pain caused by the death tax.

If, on the other hand, you die without warning or if you have an unexpectedly large estate due to increased property values and prudent investments, you are caught paying a larger tax. Taxes required as a result of intentional, planned economic decisions are one thing; taxes on an untimely death are quite another.

Not only is the death tax unfair; it hurts economic growth. The death tax creates a disincentive to create a family farm, ranch, or other business with the goal of passing it on to one’s children. In some cases, it makes more sense for a family business to be sold when the owner retires, since the taxes, primarily capital gains taxes, are going to be much lower if the assets are sold while the owner is still alive. Further, planning for the death tax makes it harder to expand a family business because needed resources are spent on attorney’s fees instead of growing the business. As much is spent each year on such “avoidance planning” as is collected in death taxes by the government.

The death tax also hurts economic growth by discouraging savings and investment. Whether it falls on a family business built through hard work or on a family with a home and a lifetime of investments in 401(k) and IRAs thanks to prudent living, it claims nearly half of an estate, and the unified credit is only $1.5 million in 2001, a number that is not indexed for inflation. Such confiscatory tax rates give people little incentive to save and invest. What’s more, the American people understand that the death tax represents multiple levels of taxation. Fully 80 percent of those in a recent survey said that the tax represents an “extreme” form of “double taxation.”

The death tax has a broader economic reach than to just those immediately hit with the tax. Suppose a small business employs 25, maybe 30 people, all of whom rely on the business for their livelihood, health insurance, and retirement savings. The entrepreneur’s heirs may not have enough cash to pay the applicable death tax, so they may be forced to liquidate the business. Depending on who buys the assets and what is done with them, the employees may now have to find other jobs. Moreover, all of the companies that sold items to or bought items from this business might need to find other suppliers or customers, leaving a hole in the economy. According to the IRS “Statistics of Income,” estate and gift tax returns in about $22.8 billion in fiscal year 2003 barely more than one percent of all gross tax collections by the Treasury Department. For such a small amount of revenue, the death tax inflicts a disproportionately large amount of damage on the economy.

One of the most interesting statements about the death tax was made by Edward J. McCaffrey, a law professor from the University of Southern California and self-described liberal, in testimony before Congress several years back. He said, “Polls and practices show that we like sin taxes, such as on alcohol and cigarettes. . . . The estate tax is an anti-sin, or a virtue, tax. It is a tax on work and savings without consumption, on thrift, on long term savings.”

I urge Congress to act this year to end this tax on virtue, work, savings, job creation and the American dream, and do it permanently.

Mr. NELSON of Florida. Mr. President, I rise today with my colleague from Arizona, Senator KYL, to introduce a bill that will eliminate the death tax once and for all. I want to thank my friend for his tireless leadership in fighting to completely and permanently repeal this unfair and unwise tax. I am proud to join him in this bipartisan effort.

First, though, I think a little historical context is in order. Remembering back to 2001, this body passed a tax cut bill that set us on the path toward full repeal of the death tax. Under this plan, between 2001 and 2009, the tax gradually is phased out, reducing the marginal rates and increasing the amount that would be exempt from taxes.

Then, in 2010, the death tax will be eliminated. But it springs back to life in 2011 at the level it was in 2001. Today, the legislation we are introducing permanently abolishes unfinished business. Our bill eliminates the so-called “sunset” date and, simply put: keeps the death tax dead.
This is an important point. It is a matter of intellectual honesty and provides much needed stability in estate planning. No one ever truly expected the death tax would revert to pre-2001 levels. This was a quirk of the budget process. This is something I always believed would be remedied.

Without action to create permanence in the Tax Code, this on-again, off-again, then on again approach makes estate planning complicated and uncertain. It stands now—financially speaking—2010 will be a good year to die, but dying in 2011 will be very expensive for your heirs. This was never Congress’ intent.

Furthermore, I believe the cost of planning is a tremendous burden on our economy. Rather than reinvigorating resources in their businesses, Americans are paying lawyers, accountants and insurers to help insulate their families from the costs of the death tax. Typically, heirs or owners are more concerned about avoiding the tax than investing in their businesses and making money, which creates jobs and stimulates the economy.

I echo the feelings of an editor at the Arkansas Democrat-Gazette, who in 2001 called this tax ‘an un-American drag on the American Dream—and economy.’

Since my election in 2000 it has been a priority of mine to do away with this tax, helping business owners and family farmers to improve their children’s standard of living, and to reinvest in the nation’s economy. This is the wrong tax levied at the wrong time; we should not be taxing individuals at death, forcing family members to make a choice between selling assets or keeping the family business.

In particular, farmers in Florida are affected more than their fair share by this tax. With the high price of land, farms can easily outgrow the exemp-

I am dedicated to continuing the legacy of Senator Breaux, who worked tirelessly on boating and fishing issues during his tenure. In 1984, as a member of the House of Representa-

In Wisconsin, this could amount to an additional $3 million annually for fishing and boating activities.

I am very proud to be working with Senator Lott on this issue. Passing this legislation will be a top priority for me in the 109th Congress. It is an issue that I know is important to the people of Wisconsin: to boaters on the Great Lakes; to the Department of Natural Resources; to anglers on rivers and lakes throughout the state. I can assure every Senator that it is equally important to people in his or her State, and I look forward to working with my colleagues to ensure this legislation’s adoption.

By Mr. BOND (for himself, Mr. KENNEDY, Mr. TALENT, Mr. JOHNSON, and Mr. ISAKSON):

S. 424. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues, Sen-

S. 421. A bill to reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes; to the Committee on Com-

S. 421. A bill to reauthorize programs relating to sport fishing and recreational boating safety, and for other purposes; to the Committee on Com-

The bill is the product of extensive cooperation and input from the arthritis community, including health providers, patients, and their families.

Through this legislation we hope to lessen the burden of arthritis and other rheumatic diseases on citizens across the Nation.

Seventy million adults—one of every three in the nation—suffer from arthritis or related conditions, and all ages are affected. Nearly two-thirds of its victims are under the age of 65, and 300,000 are children. Arthritis accounts for 4 million days of hospital care each year, and results in 44 million outpatient visits. It costs $51 million in annual medical care, and $36 million in lost productivity for persons suffering from the disease. We know that early diagnosis, treatment, and appropriate management are key to success. A National Arthritis Action Plan has been developed that could provide timely information on effective medical care nationwide, but less than one percent of persons with arthritis are benefiting from the knowledge. With a real commitment, we can bring the highest quality of care to everyone with arthritis.

In recent years, research into the prevention and treatment of arthritis has led to measures to improve the quality of life for large numbers of the public. The National Arthritis Action Plan has been developed to provide timely information on effective medical care nationwide, but less than one percent of persons with arthritis are benefiting from the knowledge. With a real commitment, we can bring the highest quality of care to everyone with arthritis.

Mr. KOHL. Mr. President, I rise today to join Senator Lott in intro-

Mr. KOHL. Mr. President, I rise today to join Senator Lott in intro-

Our legislation will implement strategies to carry out the National Arthritis Action Plan. That means supporting prevention and treatment programs and developing education and outreach activities. It means coordinating and increasing research for prevention and treatment, and applying the results to every age group affected by the disease.
We include planning grants to support innovative research on juvenile arthritis in order to develop better care and treatment for children, and collect data on its likely causes. We support training for health providers specializing in inflammatory rheumatology, so that all children will have greater access to these uniquely qualified physicians.

The legislation will improve the quality of life for large numbers of adults and children. It will save lives, reduce the burden of medical costs. Citizens everywhere will have greater access to the latest research and medical care to prevent and treat this debilitating disease. I urge our colleagues to support this much needed legislation.

By Mr. JEFFORDS (for himself, Ms. CANTWELL, and Mr. KENNEDY):

S. 426. A bill to enhance national security by improving the reliability of the United States electricity transmission grid, to ensure efficient, reliable and affordable energy to American consumers, and for other purposes, to the Committee on Energy and Natural Resources.

Mr. JEFFORDS. Mr. President, today I am introducing comprehensive legislation to ensure the reliable delivery of electric power in the United States.

Last August, 50 million people in the Northeast and Midwest were affected by a massive power outage. This event emphasized the vulnerability of the U.S. electricity grid to human error, mechanical failure, and weather-related outages. We must act to protect the grid from devastating interruptions in the future. That is why I am introducing this bill today to ensure greater reliability in our electricity delivery system.

My bill, the Electric Reliability Security Act of 2005, will help achieve reliability and security of the electricity grid in an efficient, cost-effective, and environmentally sound manner. It does so by creating mandatory, nationwide electric reliability standards.

The bill also mandates regional coordination in the siting of transmission facilities, and provides $10 billion dollars in loan guarantees to finance “smart grid” technologies that improve the way the grid transmits power.

While a $10 billion dollar investment may seem to be a large investment, it is significantly less than the transmission cost estimates that have circulated, following the Northeast black-out. Industry experts estimated that it would cost consumers as much as $100 billion dollars to upgrade transmission systems and site new lines to meet future reliability needs.

However, that hefty price tag does not factor in the costs of additional generation, does not consider the rising cost of natural gas due to increasing electricity consumption, and does not include the environmental and other social costs of continued expansion of our presently centralized power system. Power lines are expensive and are rarely welcomed by the nearby public. The loan guarantees in the bill will help pay for new transmission lines by providing federal resources to help improve existing ones.

In addressing system operation and transmission needs, the bill also promotes sound system management. It establishes a national system benefits fund as a match for state programs. Historically, regulated electric utility companies have provided a number of energy-related public services beyond simply supplying electricity that benefit the system as a whole. Such services have included bill payment assistance and energy conservation measures for low-income households, energy efficiency programs for residential and business customers, and pilot programs to promote renewable affordable energy resources. More than 20 states, including my home state of Vermont, have public benefits programs. This bill will provide needed federal matching money to States for matching programs that our states can use for these purposes. They will be able to move more quickly to deploy these low-cost strategies with federal help.

The Alliance to Save Energy estimates that a federal program to match state funds for energy efficiency programs would save 1.24 trillion kilowatt-hours of electricity over 20 years, and cut consumer energy bills by about $100 billion dollars. Mr. President, my bill, which has the potential to save consumers $100 billion dollars is far preferable to raising consumer electricity bills by the $100 billion dollars to raise money for grid expansion. My Vermont constituents would prefer to keep the lights on, and their money in their own pockets. The bill also establishes energy efficiency standards for utilities. The United States has experienced tremendous growth in electricity consumption over the past decade. Current estimates are that electric utility companies have provided a number of energy-related public services beyond simply supplying electricity that benefit the system as a whole. Such services have included bill payment assistance and energy conservation measures for low-income households, energy efficiency programs for residential and business customers, and pilot programs to promote renewable affordable energy resources.

The bill improves the way the grid transmits power. The electricity grid is a vital component of our national infrastructure. It is a critical aspect of national security. Our energy security is tied to the security and reliability of the electricity grid. It is also a vital economic asset that supports our economy and supports the quality of life for large numbers of Americans. The bill is an innovative approach to ensuring electric reliability by maximizing energy efficiency, regulatory efficiency, and efficient investment. Given the high costs of power outages to our country, we cannot afford to do otherwise.

I invite my colleagues to join me in my efforts to advance energy security and reliability in the United States. 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. 426

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.

Short Title—This Act may be referred to as the "Electric Reliability Security Act of 2005".

TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 101.—RELIABILITY
Sec. 101. ELECTRIC RELIABILITY STANDARDS.
(a) In general.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. ELECTRIC RELIABILITY.

"(a) Definitions.—In this section:

"(1) The term 'bulk-power system' means—

"(i) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

"(ii) electric energy from generation facilities needed to maintain transmission system reliability.

"(B) The term 'bulk-power system' does not include facilities used in the local distribution of electric energy.

"(2) The term '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 'interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of such components may adversely affect the stability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

"(4) The term 'regional entity' means an entity exercising substantial authority pursuant to subsection (e)(4).

"(5)(A) The term 'reliability standard' means a requirement, approved by the Commission, to provide for reliable operation of the bulk-power system.

"(B) The term 'reliability standard' includes requirements for the operation of existing transmission facilities and the design of planned additions or modifications to those facilities to the extent necessary to provide for reliable operation of the bulk-power system.

"(C) The term 'reliability standard' does not include any requirement to enlarge a facility described in subparagraph (B) or to construct new transmission capacity or generation capacity.

"(6) 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.

"(7) The term 'transmission organization' means a regional transmission organization, independent system operator, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

"(b) Jurisdiction and applicability.—

"(1)(A) 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.

"(B) The Commission shall have jurisdiction over any entity described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section.

"(2) All users, owners, and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

"(3) Not later than 180 days after the date of enactment of this section, the Commission shall issue a final rule to implement this section.

"(c) Certification.—(1) 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.

"(2) The Commission may certify an ERO described in paragraph (1) if the Commission determines that the ERO—

"(A) 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; and

"(B) has established rules that—

"(i) ensure the independence of the ERO from the users and operators of the bulk-power system, while ensuring fair stakeholder representation in the selection of directors of the ERO and balanced decision-making in committees for subordinate organizational structure;

"(ii) allocate equitably reasonable dues, fees, and other charges among end users for all activities under the jurisdiction of the ERO; and

"(iii) provide for fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subpart 1 of part 39 of this chapter (including limitations on activities, functions, or operations, or other appropriate sanctions);

"(iv) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising the duties of the ERO; and

"(v) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

"(3) The Commission may, by rule or order, approve reliability standards or modification to a reliability standard if the Commission determines that the standard is just, reasonable, and not unduly discriminatory or preference, and in the public interest.

"(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reliability standard that the Electric Reliability Organization is required to make effective under this section with the Commission.

"(2)(A) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if the Commission determines that the standard is just, reasonable, and not unduly discriminatory or preference, and in the public interest.

"(B) The Commission—

"(i) shall give effect 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 any other public or private entity organized on an interconnected-wide basis with respect to a reliability standard to be applicable within that interconnected system.

"(ii) shall not defer with respect to the effect of a standard on competition.

"(C) A proposed standard or modification shall take effect upon approval by the Commission.

"(D) The Electric Reliability Organization shall rebuttably presume that a proposal from a public entity organized on an interconnected-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnected-wide basis is just, reasonable, and not unduly discriminatory or preference, and in the public interest.

"(2) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or modification to a reliability standard that the Commission disapproves in whole or in part.

"(3) The Commission, upon a motion of the Commission or upon a petition, 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 petition if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

"(A) 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 company.

"(B) The transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule, or agreement as accepted, approved, or ordered by the Commission until—

"(i) the Commission finds a conflict exists between a reliability standard and any such provision;

"(ii) the Commission orders a change to the provision pursuant to section 206; and

"(iii) the ordered change becomes effective under this part.

"(C) If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, the Commission shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5).

"(D) Enforcement.—(1) Subject to paragraph (2), the ERO may impose 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—

"(i) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

"(ii) files notice and the record of the proceeding with the Commission.

"(2)(A) A penalty imposed under paragraph (1) may take effect not earlier than the 30th day after the date on which the ERO files with the Commission notice of the penalty and the record of proceedings.

"(B) The penalty shall be subject to review by the Commission upon—

"(i) a motion by the Commission; or

"(ii) application by the user, owner, or operator that is the subject of the penalty filed not later than 30 days after the date on which the notice is filed with the Commission.

"(C) Application to the Commission for review, or the initiation of review by the Commission upon a motion of the Commission, shall not operate as a stay of the penalty unless the Commission orders otherwise upon a motion of the Commission or upon application by the user, owner, or operator that is the subject of the penalty.

"(D) In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing, may set, modify, or modify or set aside the penalty, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings.
(E) The Commission shall implement expedited procedures for hearings described in subparagraph (D).

(5) Upon a motion of the Commission or upon application, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner of the bulk-power system if the Commission determines, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged in any act or practice that constitutes or will constitute a violation of a reliability standard.

(6) The Commission shall take appropriate measures to ensure compliance with a reliability standard.

(7) The Commission shall take appropriate measures to ensure compliance with a reliability standard.

(8) Nothing in this section authorizes the ERO 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.

(9) Nothing in this section preempts any authority of any State to take action to ensure the adequacy or reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.

(10) Not later than 90 days after the date of application of the Electric Reliability Organization or other affected party, and after notice and opportunity for a hearing, 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 ERO.

(11) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the issuance by the Commission of a final order.

(12) The Commission may delegate authority to a regional entity to enforce reliability standards and to take appropriate action against the ERO or a regional entity.

(13) The Commission may delegate authority to an independent body, a balanced stakeholder board, or a combination of an independent board and balanced stakeholder board.

(14) The regional entity otherwise meets the requirements of paragraphs (1) and (2) of subparagraph (c); and

(15) The agreement promotes effective and efficient administration of bulk-power system reliability.

(16) The Commission may modify a delegation under this paragraph.

(17) The ERO and the Commission shall periodically review the delegation.

(18) The regulations issued under this paragraph may provide that the Commission may delegate enforcement authority to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

(19) The regulations issued under this paragraph may provide that the Commission may delegate enforcement authority to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

(20) The regulations issued under this paragraph may provide that the Commission may delegate enforcement authority to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

(21) The regulations issued under this paragraph may provide that the Commission may delegate enforcement authority to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

(22) The regulations issued under this paragraph may provide that the Commission may delegate enforcement authority to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

(a) Changes in Electric Reliability Organization Rules.—(1) The Electric Reliability Organization shall file with the Commission any proposed rule or proposed rule change, accompanied by an explanation of the basis and purpose of the rule and proposed rule change.

(b) The Commission, upon a motion of the Commission or upon complaint, may propose a change to the rules of the ERO.

(c) 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, and is in the public interest, and meets the requirements of subsection (c).

(d) Reliability Reports.—The ERO shall conduct or have conducted the reliability and adequacy of the bulk-power system in North America.

(e) Savings Provisions.—(1) The ERO may only enforce compliance with reliability standards for only the bulk-power system.

(f) Consultation.—In developing the standards, the Secretary shall consult with all interested parties, including representatives of electric facility workers.

(g) Not Affecting Occupational Safety and Health.—In issuing a model code under section 117, the Secretary shall not, for purposes of section 4 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651), be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

SECTION 103. ELECTRICITY OUTAGE INVESTIGATION.

(d) Study of Model Code for Electric Utility Workers.—(1) In General.—The Secretary shall develop a model code by rule that circulates among the States for their consideration a model code containing standards for electric facility workers to ensure electric facility safety and reliability.

(2) Consultation.—In developing the standards, the Secretary shall consult with all interested parties, including representatives of electric facility workers.
United States electricity grid to examine the effectiveness of the current United States electricity transmission and distribution system at providing efficient, secure, and affordable power to United States consumers.

(b) CONTENTS.—The study shall include an analysis of—

(1) the vulnerability of the transmission and distribution system to disruption by natural, mechanical or human causes including sabotage;

(2) the most efficient and cost-effective solutions to design with vulnerabilities or other problems of the electricity transmission and distribution system of the United States, including a comparison of investment in—

(A) efficiency;

(B) distributed generation;

(C) technical advances in software and other measures to improve the efficiency and reliability of the grid;

(D) new power line construction; and

(E) any other relevant matters.

(c) REPORT.—The contract shall provide that, not later than 180 days after the date of execution of the contract, the National Academy shall submit to the President and Congress a report that details the findings and recommendations of the study.

TITLE II—EFFICIENCY

SEC. 201. SYSTEM BENEFITS FUND.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) BOARD.—The term “Board” means the System Benefits Trust Fund Board established under subsection (b).

(3) COMMISSION.—The term “Commission” means the Federal Energy Regulatory Commission.

(4) FARM SYSTEM.—The term “farm system” means an electric generating facility that generates electric energy from the anaerobic digestion of agricultural waste produced by farming that is located on the farm where substantially all of the waste is produced.

(5) FUND.—The term “Fund” means the System Benefits Trust Fund Board established under subsection (b).

(6) RENEWABLE ENERGY.—The term “renewable energy” means electricity generated from wind, ocean energy, organic waste (excluding municipal solid waste), biomass (including anaerobic digestion from farm systems and landfill gas recovery) or a geothermal, solar thermal, or photovoltaic system and landfill gas recovery) or a biomass (including anaerobic digestion from wind, ocean energy, organic waste (excluding municipal solid waste), or a generation facility, or, for electricity generated outside the United States, at the point of delivery to the wire operator’s system in interstate commerce.

(7) SECRETARY.—The term “Secretary” means the Secretary of Energy.

(b) BOARD.—

(1) ESTABLISHMENT.—The Secretary shall establish a System Benefits Trust Fund Board to carry out the functions and responsibilities described in this section.

(2) MEMBERSHIP.—The Board shall be composed of—

(A) 1 representative of the Federal Energy Regulatory Commission appointed by the Federal Energy Regulatory Commission; and

(B) 2 representatives of the Secretary of Energy appointed by the Secretary;

(C) 2 persons nominated by the National Association of Regulatory Utility Commissioners and appointed by the Secretary;

(D) 1 person nominated by the National Association of State Utility Consumer Advocates and appointed by the Secretary;

(E) 1 person nominated by the National Association of State Energy Officials and appointed by the Secretary;

(F) 1 person appointed by the National Energy Assistance Directors’ Association and appointed by the Secretary; and

(G) 1 representative of the Environmental Protection Agency appointed by the Administrator.

(3) CHAIRPERSON.—The Secretary shall select a member of the Board to serve as Chairperson of the Board.

(c) ESTABLISHMENT OF FUND.—

(1) IN GENERAL.—The Board shall establish an account or accounts at 1 or more financial institutions, which account or accounts shall:

(A) be known as the “System Benefits Trust Fund”; and

(B) consist of amounts deposited in the Fund under subsection (e).

(2) STATUS OF FUND.—The wires charges collected under subsection (e) and deposited in the Fund—

(A) shall not constitute funds of the United States;

(B) shall be held in trust by the Board solely for the purposes stated in subsection (d); and

(C) shall not be available to meet any obligations of the United States.

(d) USE OF FUND.—

(1) FUNDING OF STATE PROGRAMS.—Amounts in the Fund shall be used by the Board to provide matching funds to States and Indian tribes for the support of State or tribal public benefits programs provided—

(A) energy conservation and efficiency;

(B) renewable energy sources;

(C) assisting low-income households in meeting their home energy needs; or

(D) research and development in areas described in subparagraphs (A) through (C).

(2) DISTRIBUTION.—

(A) IN GENERAL.—Except for amounts needed to pay costs of the Board in carrying out its duties under this section, the Board shall distribute all amounts in the Fund to States or Indian tribes to fund public benefits programs under paragraph (1).

(B) FUND SHARE.—

(i) IN GENERAL.—Subject to clause (ii), the Fund share of a public benefits program funded under paragraph (1) shall be 50 percent.

(ii) PROPORTIONATE REDUCTION.—To the extent that the amount of matching funds requested by States and Indian tribes exceeds the maximum projected revenues of the Fund, the matching funds distributed to each State and Indian tribe shall be reduced by an amount equal to the proportion that the annual consumption of electricity of the State or Indian tribe bears to the annual consumption of electricity of all States and Indian tribes.

(iii) ADDITIONAL STATE OR INDIAN TRIBE FUNDING.—A State or Indian tribe may apply funds to public benefits programs in addition to the amount of funds applied for the purpose of matching the Fund share.

(3) PUBLICATION.—The Board shall recommend eligibility criteria for public benefits programs funded under this section for approval by the Secretary.

(4) APPLICATION.—Not later than August 1 of each year beginning in 2006, a State or Indian tribe seeking matching funds for the following fiscal year shall file with the Board, in such form as the Board may require, an application—

(A) certifying that the funds will be used for an eligible public benefits program;

(B) stating the amount of State or Indian tribe funds earmarked for the program; and

(C) summarizing how amounts from the Fund from the previous calendar year (if any) were used by the State and what the State accomplished as a result of the expenditures.

(e) WIRE CHARGE.

(1) DEFINITION OF NEEDED FUNDING.—Not later than September 1 of each year, the Board shall determine and inform the Commission of the aggregate amount of wires charges that will be necessary to be paid into the Fund to pay matching funds to States and Indian tribes and pay the operating costs of the Board in the following fiscal year.

(2) IMPOSITION OF WIRE CHARGE.—

(A) IN GENERAL.—Not later than December 15 of each year, the Commission shall impose a nonbypassable, competitively neutral wires charge, to be paid directly into the Fund by the operator of the wire, on electricity carried through the wire (measured at the electricity exits of the burner or generation facility, or, for electricity generated outside the United States, at the point of delivery to the wire operator’s system) in interstate commerce.

(B) AMOUNT.—The wires charge shall be set at a rate equal to the lesser of—

(i) 1.0 miles per kilowatt hour; or

(ii) a rate that is estimated to result in the collection of an amount of wires charges that is, to the maximum extent practicable, equal to the amount of needed funding determined under paragraph (1).

(3) DEPOSIT IN THE FUND.—The wires charge shall be paid by the operator of the wire directly into the Fund at the end of each month during the current fiscal year and shall be available to meet the purposes stated in subsection (d).

(f) AUDITING.—

(1) IN GENERAL.—The Fund shall be audited annually by a firm of independent certified public accountants in accordance with generally accepted auditing standards.

(2) ACCESS TO RECORDS.—Representatives of the Secretary and the Commission shall have access to all books, accounts, reports, files, and other records pertinent to the Fund as necessary to facilitate and verify the audit.

(3) REPORTS.—An audit report shall—

(A) set forth the scope of the audit; and

(B) include—

(i) a statement of assets and liabilities, capital, and surplus or deficit;

(ii) a surplus of deficit analysis;

(iii) a statement of income and expenses;

(iv) any other information that may be considered necessary to keep the President and Congress informed of the operations and financial condition of the Fund; and

(v) any recommendations with respect to the Fund that the Secretary or the Commission may have.

SEC. 202. ELECTRICITY EFFICIENCY PERFORMANCE STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621 note) is amended by adding at the end the following:

“SEC. 609. FEDERAL ELECTRICITY EFFICIENCY PERFORMANCE STANDARD.

“(a) IN GENERAL.—Each electric retail supplier shall implement energy efficiency and load reduction programs and measures to achieve verified improvements in energy efficiency and peak load reduction in retail customer facilities and the distribution systems that serve those facilities.

“(b) POWER SAVINGS.—The programs and measures under subsection (a) shall produce a net positive effect on total energy and total electricity use by retail customers by an amount that is equal to or greater than the proportionate amount of the annual consumption of electricity of the State that serves the facilities.

“SEC. 203. ELECTRICITY GENERATION AND DISTRIBUTION PERFORMANCE STANDARD.

Title VII of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2628m note) is amended by adding at the end the following:

“SEC. 610. ELECTRICITY GENERATION AND DISTRIBUTION PERFORMANCE STANDARD.

“(a) IN GENERAL.—Each electric retail supplier shall implement energy efficiency and load reduction programs and measures to achieve verified improvements in energy efficiency and peak load reduction in retail customer facilities and the distribution systems that serve those facilities.

“(b) POWER SAVINGS.—The programs and measures under subsection (a) shall produce a net positive effect on total energy and total electricity use by retail customers by an amount that is equal to or greater than the proportionate amount of the annual consumption of electricity of the State that serves the facilities.”
the following percentages relative to the peak demand and electricity used in that year by the retail electric supplier's customers:

<table>
<thead>
<tr>
<th>Year</th>
<th>Reduction in demand</th>
<th>Reduction in use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Calendar year 2006</td>
<td>1%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Calendar year 2007</td>
<td>1%</td>
<td>7.5%</td>
</tr>
<tr>
<td>Calendar year 2008</td>
<td>1%</td>
<td>7.5%</td>
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<tr>
<td>Calendar year 2009</td>
<td>1%</td>
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<td>Calendar year 2010</td>
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<td>Calendar year 2013</td>
<td>1%</td>
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<td>Calendar year 2014</td>
<td>1%</td>
<td>7.5%</td>
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</tbody>
</table>

(c) BEGINNING DATE.—For purposes of this section, savings shall be counted only for measures pursued after January 1, 2006.

(d) RULEMAKING.—(1) Not later than June 30, 2005, the Secretary shall establish, by rule:

(A) procedures and standards for counting and independently verifying energy and demand savings for purposes of enforcing the energy efficiency performance standards imposed by this section; and

(B) a schedule for reporting findings to the Department of Energy and for making the reports available to the public.

(2) In developing the procedures, standards, and schedule under paragraph (1), the Secretary shall consult—

(A) the association representing public utility regulators in the United States; and

(B) the association representing the State energy officials in the United States.

(e) TRANSITION.—Not later than June 30, 2008, and every 2 years thereafter, each retail electric supplier shall file with the State public utilities commission in each State in which the supplier provides service to retail customers a report demonstrating that the retail electric supplier has taken action to comply with the energy efficiency performance standards established by this section.

(2) A report filed under paragraph (1) shall include independent verification of the estimated savings pursuant to standards established by the Secretary.

(3) (A) A State public utilities commission may—

(i) accept a report as filed under paragraph (1); or

(ii) review and investigate the accuracy of the report.

(B) Each State public utilities commission shall—

(i) make findings on any deficiencies relating to the requirements under section 2; and

(ii) issue a remedial order for the correction of any deficiencies that are found.

(f) UTILITIES OUTSIDE STATE JURISDICTION.—(1) An electric retail supplier that is not subject to the jurisdiction of a State public utilities commission shall submit reports in accordance with subsection (e) to the governing body of the electric retail supplier.

(2) A report submitted under paragraph (1) shall be subject to independent verification of the estimated savings pursuant to standards established by the Secretary.

(g) PROGRAM PARTICIPATION.—(1) An electric retail supplier may demonstrate satisfaction of the standard under this section, in whole or part, by savings achieved through participation in statewide, regional, or national programs that can be demonstrated to significantly improve the efficiency of electric distribution and use.

(2) Verified efficiency savings resulting from measures described in paragraph (1) may be assigned to each participating retail supplier based upon the degree of participation of the supplier in the programs.

(h) RETAIL SUPPLIER rights.—(1) A retail supplier may purchase rights to extra savings achieved by other electric retail suppliers if the selling supplier or another electric retail supplier does not also take credit for those savings.

(i) REMEDIES FOR FAILURE TO COMPLY.—(1) In the event that any retail electric supplier fails to achieve its energy efficiency or demand reduction target for a specific year, any aggrieved party may bring a civil action or file an administrative claim to seek prompt enforcement in Federal district court.

(2)(A) The State public utilities commission or other appropriate governing body shall have a maximum of 1 year to craft a remedy for a civil action or claim filed under paragraph (1).

(B) If a State public utilities commission or other governing body certifies that the commission or body has inadequate resources or authority to promptly resolve enforcement actions under this section, or fails to take action within the time period specified in subparagraph (A), the commission or body or an aggrieved party may seek enforcement in Federal district court.

(3)(A) If a commission or court determines that energy or demand reduction targets for a specific year have not been achieved by a retail electric supplier under this section, the commission or court shall—

(i) determine the amount of the deficit; and

(ii) fashion an equitable remedy to resolve the issues.

(B) A remedy under subparagraph (A)(ii) may include—

(i) a refund to retail electric customers of an amount equal to the retail cost of the electricity consumed due to the failure to reach the target; and

(ii) the appointment of a special master for the purpose of developing a plan for the further enforcement of energy and demand savings safeguards under subsection (d)(1) as eligible for a guaranteed loan under this section.

(4) Not later than one year after the date of enactment of this section, the Secretary shall publish a final rule establishing guidelines for loan requirements under this section, including establishment of—

(i) criteria for determining which entities shall be considered qualifying entities eligible for loan guarantees under this section; and

(ii) any other relevant features.

(5) LIMITATION ON SIZE.—The Secretary may make commitments to guarantee loans under this section only to the extent that the total principal, any part of which is guaranteed, will not exceed $10,000,000,000.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to cover the cost of loan guarantees under this section.

(b) ELIGIBLE FINANCIAL INSTITUTIONS.—A loan guaranteed under this section shall be made by a financial institution subject to the examination of the Secretary.

(c) SETTINGS.—Not later than one year after the date of enactment of this section, the Secretary shall make available upon request net measurement and data systems for eligible activities that accomplish the objectives of this section in the most environmentally beneficial manner.

(d) PROGRAM PARTICIPATION.—(1) Each electric utility may include—

(i) any combination of the above; and

(ii) any combination of the above.

The Secretary may make commitments to guarantee loans under this section only to the extent that the total principal, any part of which is guaranteed, will not exceed $10,000,000,000.

(a) IN GENERAL.—Each electric utility shall make available upon request net measurement and data systems for eligible activities that accomplish the objectives of this section in the most environmentally beneficial manner.

(b) REFERENCES.—For purposes of implementing this paragraph, any reference to the term "utility" in section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

"(11) NET METERING.—"(A) IN GENERAL.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

(B) RULES.—For purposes of implementing this paragraph, any reference to the term "utility" in section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

"(11) NET METERING.—"(A) The term 'eligible on-site generating facility' means—
“(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 25 kilowatts or less; or

(ii) a facility on the site of a commercial or industrial electric consumer with a maximum generating capacity of 1,000 kilowatts or less, that is fueled solely by a renewable energy resource.

(B) The term ‘net metering service’ means service to an electric consumer under which electric energy generated by that electric consumer from an eligible onsite generating facility and delivered to the local distribution facilities may be offset against electric energy provided by the electric utility to the electric consumer during the applicable billing period.

(C) The term ‘renewable energy resource’ means—

(i) solar, wind, biomass, geothermal, or wave energy;

(ii) landfill gas;

(iii) fuel cells; and

(iv) a combined heat and power system.

(2) In undertaking the consideration and making the determinations concerning net metering established by section 111(d)(1), the following shall apply:

(A) An electric utility—

(i) shall charge the owner or operator of an onsite generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

(ii) shall not charge the owner or operator of an onsite generating facility any additional standby, capacity, interconnection, or other rate or charge.

(B) An electric utility that sells electric energy to the owner or operator of an onsite generating facility shall measure the quantity of electric energy produced by the onsite facility and the quantity of electricity consumed by the owner or operator of an onsite generating facility during a billing period in accordance with normal metering practices.

(C) If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the onsite generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator of the onsite generating facility for the excess kilowatt-hours generated during the billing period.

(D) A sale of electric energy to the owner or operator of an onsite generating facility may be required to offer backup power for resale at any time after the electric utility determines are necessary to protect public safety and system reliability.

(3) An electric utility shall provide net metering service to eligible onsite generating facilities until the cumulative generating capacity of net metering systems equals 1.0 percent of the utility’s peak demand during the most recent calendar year.

(H) Nothing in this subsection precludes a State from imposing additional requirements regarding the amount of net metering available with similar system impacts or consistent with the requirements of this section.

SEC. 302. INTERCONNECTION.

(a) DEFINITIONS.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraph 22 and inserting the following:

‘‘(22) GENERATING FACILITY.—The term ‘generating facility’ means a facility that generates electric energy.

(b) LOCAL DISTRIBUTION UTILITY.—The term ‘local distribution utility’ means—

(A) a transmission system, the generating facility shall serve a new or expanded load on the distribution facilities of the local distribution utility—

(i) is not subject to an order of a non-Federal regulatory authority to provide open access to the distribution facilities of the local distribution utility;

(ii) has interconnected with the local distribution utility to the extent that the local distribution utility

(i) is not subject to an order of a non-Federal regulatory authority to provide open access to the distribution facilities of the local distribution utility;

(ii) has not operated in a manner that interferes with the distribution facilities of the local distribution utility;

(iii) does not allow a generating facility to purchase backup power from another entity other than the transmission facilities of the local distribution utility.

(c) INTERCONNECTION TO TRANSMISSION FACILITIES.—Section 210 of the Federal Power Act (16 U.S.C. 824h) is amended by inserting after subsection (b) the following:

‘‘(2) Not later than 180 days after the date of enactment of this subparagraph, the Commission shall promulgate rules establishing reasonable and appropriate technical standards for the interconnection of a generating facility with the transmission facilities of a transmitting utility.

‘‘(3) A transmission utility shall allow a generating facility to purchase backup power from another entity other than the transmission utility unless—

(i) Federal or State law allows a generating facility to purchase backup power from an entity other than the transmission utility.
using the transmission facilities of the transmitting utility and the transmission facilities of any other transmitting utility.

'(D) A sale of backup power under subparagraph (A), shall be at a rate and under such terms and conditions as are just and reasonable and not unduly discriminatory or preferential, taking into account the actual incremental costs, whenever incurred by the local distribution utility, to supply such backup power service during the period in which such backup power service is provided, as determined by the appropriate regulatory authority.

'(C) A transmitting utility shall not be required to pay any reasonable costs associated with any transmission, distribution, or generation upgrade required to provide the service.'.

'(D) To the extent backup power is used to serve a new or expanded load on the transmission system, the generating facility shall pay any reasonable costs associated with any transmission, distribution, or generation upgrade required to provide the service.'.

(d) CONFORMING AMENDMENTS.—Section 210 of the Federal Power Act (16 U.S.C. 824i) is amended—

'(1) in subsection (a)(1)—

(A) by inserting "transmitting utility, local distribution utility," after "electric utility," and

(B) in subparagraph (A), by inserting "any transmitting utility," after "small power production facility,";

(2) in subsection (b)(2), by striking "an evidentiary hearing" and inserting "a hearing";

(3) in subsection (c)(2)—

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

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

and

(C) by adding at the end the following:

"(D) in dispute competition in electricity markets, and"; and

(d) in subsection (d), by striking the last sentence.

SEC. 303. ONSITE GENERATION FOR EMERGENCY FACILITIES.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE FACILITY.—The term "eligible facility" means a building owned or operated by a State or local government that is used for—

(A) critical governmental dispatch and communication;

(B) police, fire, or emergency services;

(C) traffic control systems; or

(D) public water or sewer systems.

(2) UNINTERRUPTIBLE POWER SUPPLY SYSTEM.—The term "uninterruptible power supply system" means a system designed to maintain electrical power to critical loads in a public facility in the event of a loss or disruption in conventional grid electricity, where such system derives its energy production or storage capacity solely from—

(A) solar, wind, biomass, geothermal, or ocean energy;

(B) natural gas;

(C) landfills;

(D) a fuel cell device; or

(E) a combination of energy described in subparagraphs (A) through (D).

(b) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(c) DEMONSTRATION AND TECHNOLOGY TRANSFER PROGRAM.—The Secretary shall demonstrate a demonstration program for the implementation of innovative technologies for renewable uninterruptible power supply systems located in eligible buildings and for the dissemination of information on those systems to interested parties.

(d) LIMIT ON FEDERAL FUNDING.—The Secretary shall not obligate more than 40 percent of the costs of projects funded under this section.
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February 17, 2005

not involve disposal or transportation of radioactive or combustible materials.

A 20 percent renewable portfolio standard such as I offer today will help bring the costs of on-site generation down and making owning your own electricity a reality for a growing number of homes and facilities. In these times when we worry about the potential security of our energy grid, that option becomes increasingly attractive.

Fourth, a national renewable portfolio standard builds on the successful experiments by the States. To date, 18 States, plus the District of Columbia, have adopted mandatory renewable energy standards. These State programs provide excellent incentives for renewable energy. In September 2004, New York created the second-largest new renewable energy market in the country, behind only California, when the State Public Service Commission adopted a standard of 24 percent by 2013. Earlier in 2004, Hawaii, Maryland, and Rhode Island also enacted minimum renewable electricity standards.

Texas has one of the most successful state programs. The Texas Renewable Portfolio Standard was signed into law by then Governor George W. Bush, and administered by Pat Wood, who now chairs the Federal Energy Regulatory Commission. These men know the value of renewable energy. Texas now has enough wind power to run about 300,000 homes a year, with huge benefits to ranchers who can lease acreage for wind turbines.

However, as good as these State efforts are, they are subject to the inherent limitation that they can only address electricity sales and production within their own State boundaries. Yet as we know, electricity generation and transmission are regional in nature. State renewable requirements alone cannot support the market and other mechanisms necessary to address regional and national electricity transmission.

But these State programs demonstrate that renewables requirements can work, and operate to the benefit of consumers.

Finally, I call for a national commitment to encourage renewable power because a cleaner energy future is in our grasp. The U.S. has the technical capacity to generate 4.5 times its current electricity needs from renewable energy resources. European investment continues to outstrip U.S. markets, but that is changing. Worldwide, approximately 6,500 megawatts of new wind energy generating capacity were installed, amounting to annual sales of about $7 billion. Almost a third of that came from the United States, which installed nearly 1,700 megawatts of new wind energy in 2001, or $1.7 billion worth of new wind energy generating capacity.

Yet, renewable energy still accounts for only a little over 2 percent of U.S. electricity generation.

It is not that we expect this renewable portfolio standard to make conventional energy sources obsolete. Undoubtedly, fossil, nuclear and other fuels will be with us for some time. But isn’t it time that we charted our future with cleaner energies? The potential is there, but we have to give it the assistance of market incentives, as we have traditionally done for our more established fuel sources.

I urge my colleagues to again demonstrate our commitment to renewables and support my legislation. 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. 427
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 “Renewable Energy Investment Act of 2005”.

SEC. 2. RENEWABLE PORTFOLIO STANDARD.
Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following:

SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.

(a) Definitions.—In this section:
(1) BIOMASS.—
(A) In general.—The term ‘biomass’ means—
(i) organic material from a plant that is planted for the purpose of being used to produce energy;
(ii) nonhazardous, cellulose or agricultural waste material that is segregated from other waste materials and is derived from—
(I) a forest-related resource, including—
(aa) mill and harvesting residue;
(bb) precommercial thinnings;
(cc) slash; and
(dd) brush;
(II) agricultural resources, including—
(aa) orchard tree crops;
(bb) vineyards;
(cc) grains;
(dd) legumes;
(ee) sugar; and
(ff) other crop by-products or residues; or
(III) miscellaneous waste such as—
(aa) waste pallet;
(bb) crate; and
(cc) landscape or right-of-way tree trimming; and
(III) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizers, oil, or activated carbon.
(B) Exclusions.—The term ‘biomass’ shall not include—
(i) municipal solid waste that is incinerated;
(ii) recyclable post-consumer waste paper;
(iii) treated, or pressurized wood;
(iv) wood contaminated with plastics or metals; or
(v) tires.
(2) DISTRIBUTED GENERATION.—The term ‘distributed generation’ means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.
(3) INCREMENTAL HYDROPOWER.—The term ‘incremental hydropower’ means additional generation achieved from increased efficiency after January 1, 2005, at a hydroelectric dam that was placed in service before January 1, 2005.
(4) LANDFILL GAS.—The term ‘landfill gas’ means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subsection (b) of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).
(5) RENEWABLE ENERGY.—The term ‘renewable energy’ means electricity generated from—
(A) a renewable energy source; or
(B) hydrogen that is produced from a renewable energy source.
(6) RENEWABLE ENERGY SOURCE.—The term ‘renewable energy source’ means—
(A) wind;
(B) ocean waves;
(C) biomass;
(D) solar;
(E) landfill gas;
(F) incremental hydropower; or
(G) geothermal.
(7) RETAIL ELECTRIC SUPPLIER.—The term ‘retail electric supplier’ means a person or entity that sells retail electricity to consumers, and which sold not less than 500,000 megawatt-hours of electric energy to consumers for purposes other than resale during the preceding calendar year.
(B) RENEWABLE ENERGY REQUIREMENTS.

(1) IN GENERAL.—For each calendar year beginning in Calendar Year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier’s total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.
(2) CARRYOVER.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be carried over for use within the next two years.
(3) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of Renewable energy</th>
</tr>
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<tbody>
<tr>
<td>2006–2009</td>
<td>5</td>
</tr>
<tr>
<td>2010–2014</td>
<td>10</td>
</tr>
<tr>
<td>2015–2019</td>
<td>15</td>
</tr>
<tr>
<td>2020 and subseq.</td>
<td>20</td>
</tr>
</tbody>
</table>
(4) SUBMISSION OF RENEWABLE ENERGY CREDITS.

(1) IN GENERAL.—To meet the requirements under subsection (b), a retail electric supplier shall submit to the Secretary either—
(A) renewable energy credits issued to the retail electric supplier under subsection (f);
(B) renewable energy credits purchased under subsection (c);
(C) renewable energy credits purchased from the United States under subsection (b); or
(D) any combination of credits under subsections (f), (g), or (h).

(2) PROHIBITION ON DOUBLE COUNTING.—A credit may be counted toward compliance with subsection (b) only once.

(3) RENEWABLE ENERGY CREDIT PROGRAM.—The Secretary shall establish, not later than 1 year after the date of enactment of this Act, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

(4) ISSUANCE OF RENEWABLE ENERGY CREDITS.
shall identify renewable energy credits by
issuance of renewable energy credits shall in-
(C) any other information the Secretary determines appropriate.
(3) CREDIT VALUE.—Except as provided in
subsection (b), the Secretary shall give to an owner applying under this subsection 1 renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this Act and in each subsequent calendar year.
(4) CREDIT VALUE FOR DISTRIBUTED GEN-
eration.—The Secretary shall issue 3 renewable energy credits for each kilowatt-hour of distributed generation.
(5) VESTING.—A renewable energy credit will vest with the owner of the system or fac-
ility that generates the renewable energy unless such owner explicitly transfers the credit.
(6) CREDIT ELIGIBILITY.—To be eligible for a renewable energy credit, the unit of elec-
tricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator. If both a renewable energy resource and a non-
renewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.
(7) IDENTIFYING CREDITS.—The Secretary shall identify renewable energy credits by the type of generation.
(8) SALE UNDER PURPA CONTRACT.—When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2633a-3), the retail electric supplier is treated as the generator of the electric energy for the purposes of this Act for the duration of the contract.
(9) CREDIT VALUE OF RENEWABLE EN-
ergy Credits.—A renewable energy credit may be sold or exchanged by the entity issued the renewable energy credit or by any other entity that acquires the renewable energy credit. Credits may be sold or exchanged in any manner not in conflict with existing law, including on the spot market or by contractual arrangements of any dura-
tion.
(b) PURCHASE FROM THE UNITED STATES.—The Secretary shall offer renewable energy credits for sale at the lesser of three cents per kilowatt-hour or 110 percent of the aver-
age market value of credits for the applicable calendar year. On January 1 of each year following calendar year 2006, the Sec-
retary shall adjust for inflation the price charged per credit for such calendar year.
(1) CONSUMER ALLOCATION.—The rates charged to classes of consumers by a retail electric supplier shall reflect a proportional percentage of the cost of generating or ac-
quiring the required annual percentage of renewable energy under subsection (b). A retail electric supplier shall not represent any consumer or prospective customer that any product contains more than the percentage
of eligible resources if the additional amount of eligible resources is being used to satisfy the renewable generation requirement under subsection (b).
(2) APPLICATION.—A retail electric sup-
plier that does not submit renewable energy credits as required under subsection (b) shall be liable for the payment of a civil penalty. The penalty shall be based on the number of renewable energy credits not submitted, multiplied by the lesser of 4.5 cents or 300 percent of the average market value of credits for the compliance period.
(1) INFORMATION COLLECTION.—The Sec-
retary may collect the information neces-
sary to verify:
(i) the annual electric energy generation and renewable energy generation of any enti-
ty applying for renewable energy credits under this section;
(ii) the validity of renewable energy cred-
its submitted by a retail electric supplier to the Secretary; and
(iii) the quantity of electricity sales of all retail electric suppliers.
(2) VOLUNTARY PARTICIPATION.—The Sec-
retary may issue a renewable energy credit pursuant to subsection (f) to any entity not subject to the requirements of this Act only if the entity applying for such credit meets the terms and conditions of this Act to the same extent as entities subject to this Act.
(3) STATE RENEWABLE ENERGY GRANT PROGRAM.—
(1) DISTRIBUTION TO STATES.—The Sec-
retary shall distribute amounts received from sales under subsection (h) and from amounts received under subsection (k) to States to be used for the purposes of this sec-
tion.
(2) REGIONAL EQUITY PROGRAM.—
(A) ESTABLISHMENT OF PROGRAM.—Within 1 year from the date of enactment of this Act, the Secretary shall establish a program to promote renewable energy production and use consistent with the purposes of this sec-
tion.
(B) ELIGIBILITY.—The Secretary shall make funds available under this section to State energy agencies for grant programs for—
(i) renewable energy research and develop-
ment;
(ii) loan guarantees to encourage con-
struction of renewable energy facilities;
(iii) consumer rebate or other programs to offset costs of small residential or small commercial renewable energy systems in-
cluding solar thermal systems; and
(iv) promoting distributed generation.
(3) ALLOCATION PREFERENCES.—In allo-
cating funds under the program, the Sec-
retary shall give preference to—
(A) States in regions which have a dis-
proportionately small share of economically sustainable renewable energy generation ca-
pacity; and
(B) State grant programs most likely to stimu-
lize or enhance innovative renewable energy technologies.

By Mr. TALENT (for himself, Mr. WYDEN, Mr. ALLEN, Mr. COLE-
MAN, Ms. COLLINS, Mr. CORZINE, Mr. DAYTON, Mrs. DOLE, Mr. GRAHAM, and Mr. VITTER): S. 428. A bill to provide $30,000,000,000 in new transportation infrastructure funding in addition to TEA-21 levels through bonding to empower States and local governments to complete sig-
ificant long-term capital improve-
ment projects for highways, public transportation systems, and rail sys-
tems, and for other purposes; to the Committee on Finance.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 428
Be it enacted by the Senate and House of Repre-
sentatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.
(a) SHORT TITLE.—This Act may be cited as the "Build America Bonds Act of 2005".
(b) REFERENCES TO INTERNAL REVENUE CODE OF 1986.—Except as otherwise expressly provided, whenever in this Act an amend-
ment is expressed to be made by an amendment to, or repeal of, a section or other pro-
vision, the reference shall be con-
sidered to be made to a section or other pro-

SEC. 2. FINDINGS AND PURPOSE.
(a) FINDINGS.—Congress finds the fol-
lowing:
(1) Our Nation’s highways, public transport-
ation systems, and rail systems drive our economy, enabling all industries to achieve growth and productivity that makes Amer-
ica strong and prosperous.
(2) The establishment, maintenance, and improvement of the national transportation network is a national priority, for economic, environmental, energy, security, and other reasons.
(3) The ability to move people and goods is critical to maintaining State, metropolitan, rural, and local economies.
(4) The construction of infrastructure re-
quires the skills of numerous occupations, including those in the contracting, engineer-
ing, planning and design, materials supply, and transportation, distribution, and safety in-
dustries.
(5) Investing in transportation infrastruc-
ure creates long-term capital assets for the Nation that will help the United States ad-
dress its enormous infrastructure needs and improve its economic productivity.
(6) Investment in transportation infra-
structure creates jobs and spurs economic activity to put people back to work and stimulate the economy.
(7) Every million dollars in transportation investment has the potential to create up to 47,500 jobs.
(8) Every dollar invested in the Nation’s transpor-
tation infrastructure provides returns of at least $5.70 in economic benefits because of reduced delays, improved safety, and reduced vehicle operating costs.
(9) The proposed increases to the Transpor-
tation Equity Act for the 21st Century (TEA-
21) will not be sufficient to compensate for the Nation’s transportation infrastructure de-
ficiency.
(b) PURPOSE.—The purpose of this Act is to provide financing for long-term infrastruc-
ture capital investments that are not cur-
rently being met by existing transportation and infrastructure investment programs, in-
cluding mega-projects, projects of national significance, multistate transportation cor-
rridors, intermodal transportation facilities, and transportation and security improve-
ments to highways, public transportation systems, and rail systems.

SEC. 3. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.
(a) IN GENERAL.—Part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the fol-
lowing: new subpart:
"Subpart H—Nonrefundable Credit for Holders of Build America Bonds
"Sec. 54. Credit to holders of Build America
"bonds.

February 17, 2005
CONGRESsional RECORD—SENATE
S1643

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

Mr. TALENT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.
SEC. 54. CREDIT TO HOLDERS OF BUILD AMERICA BONDS.

(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a Build America bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

(b) CREDIT ALLOWED.—In the case of a bond which is outstanding on the date of sale of the issue in which such bond was sold, the credit determined under subsection (b) shall be allowed to the taxpayer under this section without regard to subparagraph (C) of subsection (d).

(c) AMOUNT OF CREDIT.—For purposes of this section, the credit allowed to the taxpayer under this section with respect to any credit allowance date for a Build America bond is determined without regard to subsection (d). The amount of the credit determined under this subsection with respect to any credit allowance date shall be a ratable portion of the credit otherwise allowed to such taxpayer with respect to such credit allowance date.

(d) CREDIT INCLUDED IN GROSS INCOME.—(1) In general.—The bond is issued before the Transportation Finance Corporation, in registered form, and meets the Build America bond limitation requirements under subsection (g).

(2) The Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l), except that in accordance with section (g)(6), the term of each bond which is part of such issue does not exceed 30 years.

(3) The payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

(4) With respect to bonds described in paragraph (1), the issuer meets the requirements of subsection (h) (relating to arbitrage).

(5) QUALIFIED PROJECT.—For purposes of this section—

(A) the term ‘qualified project’ means—

(i) a project of regional or national significance,

(ii) a multistate corridor project,

(iii) border planning, operations, technology, and capacity improvement program, and

(iv) freight intermodal connector project; and

(B) ‘Projects of Regional and National Significance’—

(i) project of regional or national significance means the eligible project costs of any surface transportation project which is eligible for Federal assistance under title 23, United States Code, including any freight rail project and activity eligible under such title, if such eligible project costs are reasonably anticipated to equal or exceed—

(I) $100,000,000, or

(II) 50 percent of the amount of Federal highway assistance funds apportioned for the most recent fiscal year to the State in which the project is located.

(ii) Eligible Project Costs.—The term ‘eligible project costs’ means the costs of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities, and

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

(iii) Criteria for Approval.—The Transportation Finance Corporation may approve a project of regional or national significance only if the Corporation determines that the project meets the criteria set forth in the project’s application.

(iv) To generate national or regional economic development, phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities, and is justified based on the project’s ability—

(A) to generate national or regional economic development, including approximately 20,000 new jobs, expanding business opportunities, and impacting the gross domestic product,

(B) to deposit in the Build America Trust Account for repayment of Build America bonds at maturity,

(C) the bond is issued before the Transportation Finance Corporation, in registered form, and meets the Build America bond limitation requirements under subsection (g),

(D) the Transportation Finance Corporation certifies that the State in which an approved qualified project is located meets the requirement described in subsection (l), except that in accordance with section (g)(6), the term of each bond which is part of such issue does not exceed 30 years.

(E) the payment of principal with respect to such bond is the obligation of the Transportation Finance Corporation, and

(F) With respect to bonds described in paragraph (1), the issuer meets the requirements of subsection (g) (relating to arbitrage).

(G) The Transportation Finance Corporation shall consider in approving any multistate corridor project—

(i) the existence and significance of signed and binding multijurisdictional agreements,

(ii) prospects for early completion of the program, or

(iii) whether the projects under such program to be studied or constructed are located on corridors identified by section 1105(c) of the Multimodal Surface Transportation Efficiency Act of 1991 (Public Law 102–293, 105 Stat. 2032).

(iv) Border Planning, Operations, Technology, and Capacity Improvement Program.—

(A) In general.—The term ‘border planning, operations, technology, and capacity improvement program’ means any program which includes 1 or more eligible activities to support coordination and improvement in border transportation planning and operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

(B) Eligible Activities.—For purposes of this subparagraph, the term ‘eligible activities’ means—

(i) highway and multimodal planning or environmental studies,

(ii) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications,

(iii) technology and information exchange activities, and

(iv) right-of-way acquisition, design, and construction, as needed to implement the enhancements or applications described in subchapters (I) and (II) and (III) of section 304(a) and to decrease air pollution emissions from vehicles or inspection facilities at border crossings, or to increase highway capacity at or near international borders.

(E) Freight Intermodal Connector Projects.—

(A) In general.—The term ‘freight intermodal connector project’ means any project for the construction of and improvements to publicly owned freight intermodal connectors to the National Highway System, the provision of access to such connectors, and operational improvements for such connectors (including capital investment for intelligent transportation systems), except that a project located within the boundaries of an intermodal freight facility shall only include highway infrastructure modifications necessary to facilitate direct intermodal access between the connector and the facility.

(B) Criteria for Approval.—The Transportation Finance Corporation shall consider in approving any freight intermodal connector project the criteria set forth in the report of the Department of Transportation to Congress entitled ‘Pulling Together: The National Highway System’, the connection to Major Intermodal Terminals’.

(C) Freight Intermodal Connector.—The term ‘freight intermodal connector’ means any project for the construction of and improvements to publicly owned freight intermodal connectors to the National Highway System, the provision of access to such connectors, and operational improvements for such connectors (including capital investment for intelligent transportation systems), except that a project located within the boundaries of an intermodal freight facility shall only include highway infrastructure modifications necessary to facilitate direct intermodal access between the connector and the facility.

(D) Criteria for Approval.—The Transportation Finance Corporation shall consider in approving any freight intermodal connector project the criteria set forth in the report of the Department of Transportation to Congress entitled ‘Pulling Together: The National Highway System’, the connection to Major Intermodal Terminals’.
“(iv) Intermodal freight facility.—The term ‘intermodal freight facility’ means a port, airport, truck-rail terminal, and pipeline-truck terminal.

“(5) Public transportation project.—The term ‘qualified public transportation project’ means a project for public transportation facilities or other facilities which are eligible for assistance under title 49, United States Code, including intercity passenger rail.

“(g) Limitation on amount of bonds designated; allocation of bond proceeds.—

“(1) In general.—Subject to paragraph (2), an issue shall be treated as meeting the requirements of this subsection if as of the date of issuance, the Transportation Finance Corporation

“(A) to spend at least 85 percent of the net spendable proceeds from the sale of the issue in 1 or more qualified projects within the 5-year period beginning on such date,

“(B) to incur a binding commitment with a third party to spend at least 10 percent of the net spendable proceeds from the sale of the issue with respect to projects within this 12-month period beginning on such date, and

“(C) to proceed with due diligence to complete such projects and to spend the net spendable proceeds from the sale of the issue.

“(2) Spent proceeds.—Net spendable proceeds are considered spent by the Transportation Finance Corporation when a sponsor of a qualified project obtains a reimbursement from the Transportation Finance Corporation for eligible project costs.

“(B) Rules concerning compliance after 5-year determination.—If at least 85 percent of the net spendable proceeds from the sale of the issue is not expended for qualified projects, and the requirements of paragraph (1) are met as of the end of the 5-year period beginning on such date, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

“(3) Reallocation.—In the event the recipient of an allocation under subsection (g) fails to meet the requirements of this subsection if the Transportation Finance Corporation that its actions will allow the Transportation Finance Corporation to meet the requirements under this subsection, the Transportation Finance Corporation may redistribute the allocation meant for such recipient to other recipients.

“(4) Recapture of portion of credit where cessation of compliance.—

“(1) In general.—If any bond which when issued purported to be a Build America bond pursuant to this section at the time required by the Secretary an amount equal to the sum of—

“(A) the aggregate of the credits allowable under this section with respect to such bond (determined without regard to subsection (c) for failure years ending during the calendar year in which such cessation occurs and the 2 preceding calendar years, and

“(B) interest at the underpayment rate under section 6621 on the amount determined under subparagraph (A) for each calendar year for the period beginning on the first day of such calendar year.

“(2) Failure to pay.—If the Transportation Finance Corporation fails to timely pay the amount required by paragraph (1) with respect to such bond, the tax imposed by this section on such holder of any such bond which is part of such issue shall be increased (for the taxable year of the holder in which such cessation occurs) by the aggregate increase in tax required under paragraph (1) for each calendar year for the period beginning on the first day of such calendar year beginning in such 3 calendar years which would have resulted solely from denying any credits under this section with respect to such issue for such taxable years.

“(3) Special rules.—

“(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (2) only with respect to credits allowed by reason of this section which were used to reduce tax liability. Any credits so not used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

“(B) Certain credits.—Any increase in tax under paragraph (2) shall not be treated as a tax imposed by this chapter for purposes of determining—

“(i) the amount of any credit allowable under this part, or

“(ii) the amount of the tax imposed by section 55.

“(5) Build America trust account.—

“(1) In general.—The following amounts shall be held in a Build America Trust Account by the Transportation Finance Corporation:

“(A) The proceeds from the sale of all bonds issued under this section.

“(B) The amount of any matching contributions with respect to such bonds.

“(C) The investment earnings on proceeds from the sale of such bonds.

“(D) Any earnings on any amounts described in subparagraph (B).

“(2) Use of funds.—Amounts in the Build America Trust Account may be used only to pay costs of qualified projects, redeem Build America bonds, and fund the operations of the Transportation Finance Corporation, except that amounts withdrawn from the Build America Trust Account to pay costs of qualified projects may not exceed the aggregate proceeds from the sale of Build America bonds described in subsection (e)(1)(A).

“(3) Use of remaining funds in build america trust account.—

“(A) The Transportation Finance Corporation may use the Build America Trust Account to pay costs of any qualified project.

“(B) Costs of qualified projects.—For purposes of this section, the costs of qualified projects which may be funded by amounts in the Build America Trust Account may only relate to capital investments in depreciable assets and may not include any costs relating to operations, maintenance, or rolling stock.

“(5) Application of federal law.—The requirements of any Federal law, including section 103 of the Internal Revenue Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

“(A) funds made available under the Build America Trust Account for similar qualified projects, including contributions required under subsection (k), and

“(B) similar qualified projects assisted by the Transportation Finance Corporation through the use of such funds which would otherwise apply.

“(6) Investment.—It shall be the duty of the Transportation Finance Corporation to invest in investment grade obligations such portion of the Build America Trust Account as is not, in the judgment of the Board of Directors of the Transportation Finance Corporation, required to meet current withdrawals. To the maximum extent practicable, investments should be made in securities that support transportation investment at the State and local level.

“(7) Small denomination bonds.—

“(1) In general.—For purposes of subsection (e)(3), the State contribution requirement of this subsection is met with respect to qualified projects if the Transportation Finance Corporation has received from 1 or more States, not later than the
date of issuance of the bond, written commitments for matching contributions of not less than 20 percent (or such smaller percentage as determined under title 23, United States Code, for such State) of the cost of the qualified project.

"(2) State matching contributions may not include federal funds.—For purposes of this subsection, State matching contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section (a)(6).

"(3) Special rules for qualified projects.—For purposes of subsection (e)(4)(A), the requirement of this subsection is met if the appropriate State agency relating to the qualified project has updated its accepted construction technology to match a list prescribed by the Secretary of Transportation and in effect on the date of the approval of the project as a qualified project.

"(m) Other Definitions and Special Rules.—For purposes of this section—

"(1) Administrative costs.—The term ‘administrative costs’ shall only include costs of issuance of Build America bonds and operation costs of the Transportation Corporation.

"(2) Bond.—The term ‘bond’ includes any obligation.

"(3) Net spendable proceeds.—The term ‘net spendable proceeds’ means the proceeds from the sale of a qualified project that the Transportation Finance Corporation takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall specify remedial actions which may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a Build America bond.

"(6) Partnership; s corporation; and other pass-thru entities.—In the case of a partnership, s corporation, or other pass-thru entity, rules similar to the rules of section 41(g)(2) shall apply with respect to the credit allowable under subsection (a).

"(7) Registered investment companies.—If any Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(8) Credits may be stripped.—Under regulations of the Secretary—

"(A) in general.—There may be a separation (including at issuance) of the ownership of a Build America bond and the entitlement to the credit allowable under section (a).

"(B)科普：score.—If a Build America bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(B) Certain rules to apply.—In the case of a Build America bond, in subparagraph (A), the rules of section 1286 shall apply to the Build America bond as if it were a stripped bond and to the credit under this section in regard to an individual, evidencing the entitlement to the credit and not to the holder of the bond.

"(9) Credits may be transferred.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

"(10) Reporting.—The Transportation Finance Corporation shall submit reports similar to the reports required under section 149(e).

"(11) Prohibition on use of highway trust fund funds.—For purposes of this section, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with any Build America bond issued under this section.

"(b) Amendments to Other Code Sections.—

"(1) Reporting.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

"(2) Treatment for estimated tax purposes.—

"(A) Individual.—Section 6655 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(3) Special Rule for Holders of Build America Bonds.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding a Build America bond on a credit allowance date shall be treated as if it were a payment of estimated income tax made by the taxpayer on such date.

"(4) Proposed regulations.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.

"(1) Establishment and status.—There is established a body corporate to be known as the ‘Build America Trust Account’ as required under section 54(j) of such Code.

"(2) Principal Office; Application of Laws.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia, and any place in the United States, of the Corporation is a business corporation for all purposes of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with any Build America bond issued under this section.

"(2) Establishment and status.—There is established a body corporate to be known as the Transportation Corporation for the purposes of this section.

"(3) Authority.—The Transportation Corporation shall have the authority to—

"(4) Other definitions and special rules.—For purposes of this section—

"(5) Special Rule; Restriction on Use of Moneys; Conflict of Interests; Audits.—

"(6) Nonprofit entity.—The Corporation shall be a nonprofit corporation and shall have no capital stock.

"(7) Limitation on use of income or property.—The income or property of the Corporation shall not inure to the benefit of any of its directors, officers, or employees, and such

United States Government, and shall not be subject to title 51, United States Code.

"(b) Principal Office; Application of Laws.—The principal office and place of business of the Corporation shall be in the District of Columbia, and, to the extent consistent with this section, the District of Columbia, and any place in the United States, of the Corporation is a business corporation for all purposes of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with any Build America bond issued under this section.

"(c) Functions of Corporation.—The Corporation shall—

"(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986, and

"(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code.

"(3) act as a centralized entity to provide financing for qualified projects,

"(4) leverage resources and stimulate public and private investment in transportation infrastructure,

"(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

"(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds,

"(7) not later than February 15 of each year submit a report to Congress—

"(A) describing the activities of the Corporation for the preceding year, and

"(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to this section.

"(8) Powers of Corporation.—The Corporation—

"(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

"(2) may adopt, alter, and use a seal, which shall be judicially noticed,

"(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

"(4) may make and perform such contracts and other agreements with any individual, corporation, or other entity, however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

"(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

"(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

"(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed), any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

"(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

"(9) shall have such other powers as may be necessary and incidental to carrying out this Act.

"(a) Establishment and Status.—There is established a body corporate to be known as the ‘Transportation Finance Corporation’ for the purposes of this section.

"(b) Fiscal Office.—The Transportation Finance Corporation is a business corporation for all purposes of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay costs associated with any Build America bond issued under this section.

"(c) Functions of Corporation.—The Corporation shall—

"(1) issue Build America bonds for the financing of qualified projects as required under section 54 of the Internal Revenue Code of 1986, and

"(2) establish and operate the Build America Trust Account as required under section 54(j) of such Code.

"(3) act as a centralized entity to provide financing for qualified projects,

"(4) leverage resources and stimulate public and private investment in transportation infrastructure,

"(5) encourage States to create additional opportunities for the financing of transportation infrastructure and to provide technical assistance to States, if needed,

"(6) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds,

"(7) not later than February 15 of each year submit a report to Congress—

"(A) describing the activities of the Corporation for the preceding year, and

"(B) specifying whether the amounts deposited and expected to be deposited in the Build America Trust Account are sufficient to fully repay at maturity the principal of any outstanding Build America bonds issued pursuant to this section.

"(8) Powers of Corporation.—The Corporation—

"(1) may sue and be sued, complain and defend, in its corporate name, in any court of competent jurisdiction,

"(2) may adopt, alter, and use a seal, which shall be judicially noticed,

"(3) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Corporation,

"(4) may make and perform such contracts and other agreements with any individual, corporation, or other entity, however designated and wherever situated, as may be necessary for carrying out the functions of the Corporation,

"(5) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid,

"(6) may, as necessary for carrying out the functions of the Corporation, employ and fix the compensation of employees and officers,

"(7) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Corporation,

"(8) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this Act, and

"(9) shall have such other powers as may be necessary and incidental to carrying out this Act.

"(a) Establishment and Status.—There is established a body corporate to be known as the ‘Transpor-
revenue, earnings, or other income or property shall only be used for carrying out the purposes of this Act.

(3) CONFLICT OF INTERESTS.—No director, officer, or employee of the Corporation shall in any manner, directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(4) AUDITS.—

(A) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(i) In general.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants that are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with respect to such account records, securities held by depositaries, fiscal agents, and custodians shall be afforded to such person or persons.

(ii) Record keeping requirements.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps separate accounts with respect to such assistance, and such records as may be reasonably necessary to fully disclose—

(I) the amount and the disposition by such recipient of the proceeds of such assistance;

(II) the total cost of the project or undertaking in connection with which such assistance is given or used, and the extent to which such costs are for a qualified project, and

(III) the amount and nature of that portion of the cost of the project or undertaking supplied by sources other than the Corporation and such other records as will facilitate an effective audit.

(B) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance.

(C) AUDIT AND EXAMINATION OF ACCOUNTS.—

(1) IN GENERAL.—The Corporation, including its franchise, capital, reserves, surplus, sinking funds, mortgages or other security holdings, and income, shall be exempt from all taxation other than imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipal, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent and to the same extent and to its value as other real property is taxed.

(2) FINANCIAL OBLIGATIONS.—Build America bonds or other obligations issued by the Corporation in reliance on or under the interest on or tax credits with respect to its bonds or other obligations shall not be subject to taxation by any State, county, municipality, or local taxing authority.

(g) ASSISTANCE FOR TRANSPORTATION PURPOSES.—

(1) IN GENERAL.—In order to carry out the corporate functions described in subsection (c), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, loans, assistance, or technical assistance from any Federal department or agency, to the extent permitted by law.

(2) AGREEMENT.—In order to receive any assistance under subsection (c), the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(A) to use such assistance to provide funding and technical assistance only for activities and projects for which the Corporation determines are consistent with the corporate functions described in subsection (c); and

(B) to review the activities of State transportation agencies and other entities receiving assistance from the Corporation to assure that the corporate functions described in subsection (c) are carried out.

(3) CONSTRUCTION.—Nothing in this section shall be construed to establish the Corporation as a department, agency, or instrumentality of the Federal Government or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the United States Government.

(b) MANAGEMENT OF CORPORATION.—

(1) BOARD OF DIRECTORS; MEMBERSHIP; DESIGNATION OF CHAIRPERSON AND VICE CHAIRPERSON; APPOINTMENT CONSIDERATIONS; TERM; VACANCIES.

(A) BOARD OF DIRECTORS.—The management of the Corporation shall be vested in a board of directors composed of 15 members appointed by the President, by and with the advice and consent of the Senate.

(B) CHAIRPERSON AND VICE CHAIRPERSON.—The President shall designate 1 member of the Board to serve as Chairperson of the Board and 1 member to serve as Vice Chairperson of the Board.

(C) INDIVIDUALS FROM PRIVATE LIFE.—Eleven members of the Board shall be appointed from private life.

(D) FEDERAL OFFICERS AND EMPLOYEES.—Four members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with infrastructure development.

(E) APPOINTMENT CONSIDERATIONS.—All members of the Board shall be appointed on the basis of their understanding of and sensitivity to infrastructure development processes. Members of the Board shall be appointed so that not more than 8 members of the Board are members of any 1 political party.

(F) TERMS.—Members of the Board shall be appointed for terms of 3 years, except that the members first appointed, as designated by the President at the time of their appointment, shall be appointed for terms of 1 year and 5 shall be appointed for terms of 2 years.

(G) VACANCIES.—A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member’s predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of a member’s term, the President shall designate a successor to serve until a successor is appointed and is qualified.

(2) COMPENSATION, ACTUAL, NECESSARY, AND PER DIEM EXPENSES.—The Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day for transportation expenses, while engaged in their duties on behalf of the Corporation.

(3) QUORUM.—A majority of the Board shall constitute a quorum.

(4) PRESIDENT OF CORPORATION.—The Board of Directors shall appoint a president of the Corporation on such terms as the Board may determine.

By Mr. LIEBERMAN (for himself, Mr. DODD, Mr. KENNEDY, and Mr. KERRY):

S. 429. A bill to establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. LIEBERMAN. Mr. President, today I introduce legislation that is a first step in giving the Upper Housatonic Valley, a nationally significant area, the acknowledgment and resources it deserves. Designation of the upper Housatonic Valley as a national heritage area will enhance and foster private-public partnerships to educate residents and visitors about the region; improve the area’s economy through business investment, job expansion, and tourism; and protect the area’s natural and cultural heritage.

The Upper Housatonic Valley is a unique cultural and geographical region that encompasses the Housatonic River watershed, extending from Lanesboro, MA to Kent, CT. The valley has made significant national contributions through literary, artistic, musical, and architectural achievements; as the backdrop for important Revolutionary War era events; as the cradle of the iron, paper, and electrical industries; and as home to key figures and events in the abolitionist and civil rights movements. It includes five National Historic Landmarks and four National Landmarks.

The Upper Housatonic Valley National Heritage Area Act would officially designate the region as part of the National Park Service system. It would authorize the funding for a variety of activities that conserve the significant natural, historical, cultural, and scenic resources, and that provide educational and recreational opportunities in the area. The Upper Housatonic Valley is part of our national identity. Making it a National Heritage Area will preserve and develop the experiences that connect us to our history and heritage as Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 429

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 ‘‘Upper Housatonic Valley National Heritage Area Act’’.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

...
(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, its scenic beauty, and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places including:

(a) Five National Historic Landmarks—
(1) Edith Wharton’s home, The Mount, Lenox, Massachusetts;
(2) Herman Melville’s home, Arrowhead, Pittsfield, Massachusetts;
(3) W.E.B. DuBois’ Boyhood Home site, Great Barrington, Massachusetts;
(4) Mission House, Stockbridge, Massachusetts; and
(5) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and
(b) Four National Natural Landmarks—
(1) Experiment’s Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;
(2) Beckley Bog, Norfolk, Connecticut;
(3) Bingham Bog, Salisbury, Connecticut; and

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country’s leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob’s Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a large forest conservation area, including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays’ Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years and Mohicans continue to have a formal role in contact with Europeans during the seventeenth and eighteenth centuries.

(9) To establish the Upper Housatonic Valley National Heritage Area, as depicted on the map, Pittsfield, Massachusetts; and

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River’s watershed, which extends 60 miles from Lanesboro, Massachusetts, to Kent, Connecticut;
(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut;
(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlborough, Pittsfield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts; and
(4) the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate unit of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc., shall be the management entity for the Heritage Area.

SEC. 5. AUTHORITIES, PROHIBITIONS AND DUTIES OF THE MANAGEMENT ENTITY.

(a) DUTIES OF THE MANAGEMENT ENTITY.

To further the purposes of the Heritage Area, the management entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 6;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

SEC. 3. DEFINITIONS.

In this Act:

(1) TER  2005Housatonic Valley National Heritage Area means the area described in section 4.

(2) MANAGEMENT ENTITY.—The term “Management Entity” means the management entity for the Heritage Area designated by section 4(d).

(3) MANAGEMENT PLAN.—The term “Management Plan” means the management plan for the Heritage Area specified in section 6.

(4) MAP.—The term “map” means the map entitled “Boundary Map Upper Housatonic Valley National Heritage Area,” numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) STATE.—The term “State” means the Commonwealth of Massachusetts, and the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 4. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area.

(b) MANAGEMENT ENTITY.—The term “Management Entity” means the management entity for the Heritage Area.

(c) PROHIBITIONS ON THE ACQUISITION OF REAL PROPERTY.—The management entity may not use Federal funds received under this Act to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, for any other purpose including the expenditure of such funds; and

(d) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and landmarks in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area; and

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the management entity receives Federal funds under this Act, setting forth its accomplishments, expenditures, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it received Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures by other Federal agencies or other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds, and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The management entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this Act to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State of Connecticut and the Commonwealth of Massachusetts, their political jurisdictions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to do any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies and recommendations for interpretation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, federal, and local plans for the development of the management plan and its implementation;
Heritage Area; and
to maintain, and provide for the implementation of the approved management plan.

(b) DEADLINE AND TERMINATION OF FUNDING.

(1) DEADLINE.—The management entity shall submit the management plan to the Secretary for approval within 3 years after funds are made available for this Act.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal funding under this Act until such time as the management plan is submitted to and approved by the Secretary.

SEC. 7. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.

(1) IN GENERAL.—The Secretary may, upon the request of the management entity, provide technical assistance on a reimbursable basis to further the purposes of this Act and the management plan.

(2) SPENDING FOR NON-FEDERALLY OWNED PROPERTY.—The Secretary may spend Federal funds on non-federally owned property to further the purposes of this Act, especially in assisting units of government in appropriate treatment of districts, sites, buildings, and objects listed or eligible for listing on the National Register of Historic Places.

(b) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.

(1) IN GENERAL.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) CRITERIA FOR APPROVAL.—In determining the approval of the management plan, the Secretary shall consider:

(A) the management entity is representative of the diverse interests of the Heritage Area, including governments, natural and historical resource organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has afforded adequate opportunities to historic, scenic, and recreational resources of the Heritage Area.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan, the Secretary shall provide the management entity with a written notice of the reasons therefore and shall make recommendations for revisions to the plan. The Secretary shall approve or disapprove a proposed revision within 60 days after the date it is submitted.

(4) APPROVAL OF AMENDMENTS.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The management entity shall not use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendment.

SEC. 8. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 9. AUTHORIZATION OF Appropriations.

(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this Act not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this Act.

(b) MATCHING FUNDS.—Federal funding provided under this Act may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this Act.

(c) SUNSET.—The authorization of appropriations under this Act shall terminate on the day occurring 15 years after the date of enactment of the Act.

By Ms. CANTWELL:
S. 430. A bill to arrest methamphetamine abuse in the United States; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President, today I am introducing legislation to ensure that law enforcement has the resources it needs to address and eventually solve the methamphetamine crisis in this country. My bill is entitled the Arrest Methamphetamine Act of 2005. It would create a new formula-based grant program for States that have enacted sophisticated laws governing the sale of the precursor product, pseudoephedrine, to make production of methamphetamine designed to help communities cope with the myriad problems being caused by meth, and ultimately to stop the growing meth epidemic in its tracks.

Never before has creating a separate program to finance the battle against meth abuse been so critical. I am pleased to see that the President’s fiscal year 2006 budget request mortally wounds the COPS program and that his budget finishes off the already slashed and reconstituted Byrne grants program. These two mechanisms have provided anti-meth funds for years now, and each year, the administration’s efforts to undermine the COPS program and the Byrne grants program further jeopardize law enforcement efforts against meth and the myriad other important law enforcement-related initiatives that these two programs have carried out for so many years. While I plan to work hard with my colleagues to restore funding to the COPS and Byrne programs generally, I do not see that our efforts to save these programs every year from the administration’s chopping block is the best way to ensure that necessary financial resources are there for all aspects of the meth fight.

While the administration was busy slashing the $499 million COPS program all the way down to $2 million, the meth problems that the COPS program addresses only got worse. Meth abuse, as an epidemic, started in the West and the Midwest, but has more recently begun to move east. Meth use and production is exploding in North Carolina, Georgia law enforcement officials recently had one of the largest meth busts on record, and Missouri, Iowa and Minnesota have been inundated with severe numbers. In 2003, methamphetamine was identified as the greatest drug threat by 90.9 percent of local law enforcement agencies in the Pacific region. By comparison, only 53.3 percent of agencies reporting identified cocaine as their biggest threat, followed by marijuana at 21.1 percent and heroin at less than 1 percent.

This epidemic of meth has permeated the most urban and most rural communities. Meth labs range in sophistication from being run by multi-national organized crime rings to back alley cook shops, and they exist in crudely converted farm houses and in illicit high-financed facilities run by Mexican drug rings. Meth victims are of all ages, and there is heart-wrenching data and anecdotes on meth addiction of mothers, and the impact of adult meth use on their very young children.

I ask unanimous consent that the text of the bill be printed in the RECORD.
follows:

There being no objection, the bill was ordered to be printed in the Record, as follows:

SEC. 3. CONFRONTING THE USE OF METHAMPHETAMINE.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART III—CONFRONTING USE OF METHAMPHETAMINE

SEC. 2991. AUTHORITY TO MAKE GRANTS TO ADDRESS PUBLIC SAFETY AND METHAMPHETAMINE MANUFACTURING, SALE, AND USE.

'(a) Purpose and Program Authority.—
'(1) Purpose.—It is the purpose of this part to assist States to:
'(A) carry out programs to address the manufacture, sale, and use of methamphetamine drugs; and
'(B) improve the ability of State and local government institutions of to carry out such programs.
'(2) Grant Authorization.—The Attorney General, through the Bureau of Justice Assistance, may make grants to States to address the manufacture, sale, and use of methamphetamine to enhance public safety.
'(3) Projects to Address Methamphetamine Manufacture Sale and Use.—

Grants made under subsection (a) may be used for programs, projects, and other activities to—
'(A) arrest individuals violating laws related to the use, manufacture, or sale of methamphetamine;
'(B) undertake methamphetamine clandestine lab seizures and environmental clean up;
'(C) provide for community-based education, awareness, and prevention activities; and
'(D) provide child support and family services related to assist users of methamphetamine and their families.

'(E) provide for intervention in methamphetamine use;
'(F) facilitate treatment for methamphetamine addiction;
'(G) provide Drug Court and Family Drug Court services to address methamphetamine;
'(H) provide community policing to address the problem of methamphetamine use;
'(I) support State and local health department and environmental agency services deployed to address methamphetamine;
'(J) prosecute violations of laws related to the use, manufacture, or sale of methamphetamine; and
'(K) procure equipment, technology, or support systems, or pay for resources, if the applicant for a grant demonstrates to the satisfaction of the Attorney General that expenditures for such purposes would result in the reduction in the use, sale, and manufacture of methamphetamine.

'(b) Eligibility.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General assurances that the State has implemented, or will implement prior to receipt of a grant under this section laws, policies, and programs that restrict the wholesale and limited sale of products used as precursors in the manufacture of methamphetamine.

SEC. 2992. APPLICATIONS.

'(a) In General.—No grant may be made under this part unless an application has been submitted to, and approved by, the Attorney General.

'(b) Application.—An application for a grant under this part shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

'(c) Contents.—In accordance with the regulations or guidelines established by the Attorney General, each application for a grant under this part shall—
'(1) include a long-term statewide strategy that—
'(A) reflects consultation with appropriate public and private organizations, tribal governments, and community groups;
'(B) represents an integrated approach to addressing the use, manufacture, and sale of methamphetamine that includes—
'(i) arrest and clandestine lab seizure;
'(ii) training for law enforcement, fire and other relevant emergency services, health care providers, and child and family service providers;
'(iii) intervention;
'(iv) child and family services;
'(v) treatment;
'(vi) drug court;
'(vii) family drug court;
'(viii) health department support;
'(ix) environmental agency support;
'(x) prosecution; and
'(xi) evaluation of the effectiveness of the program and description of the efficacy of components contributed to reducing the burden placed on these units of local government for the development, expansion, modification, operation or improvement of programs to address the use, manufacture, or sale of methamphetamine;
'(2) certify that the State will share funds received under this part with counties and other units of local government, when taking into account the burden placed on these units of local government when they are required to address the use, manufacture, or sale of methamphetamine;
'(3) assess the impact, if any, of the increase in police resources on other components of the criminal justice system;
'(4) explain how the grant will be utilized to maintain and enhance the development, expansion, modification, operation or improvement of programs that address the use, manufacture, or sale of methamphetamine; and
'(5) demonstrate a specific public safety need;
'(6) explain the applicant's inability to address the need without Federal assistance;
'(7) specify plans for obtaining necessary support and continuing the proposed programs, project, or activity following the conclusion of Federal support; and
'(8) certify that funds received under this part will be used to supplement, not supplant, other Federal, State, and local funds.

SEC. 2993. PLANNING GRANTS.

'(a) Eligible Entity.—The Attorney General, through the Bureau of Justice Assistance in the Office of Justice Programs, may make grants under this section to States, Indian tribal governments, and multi-jurisdictional or regional consortia to develop a comprehensive, cooperative, and integrated plan to address the manufacture, sale, and use of methamphetamine to enhance public safety.

'(b) Authorization.—The Attorney General is authorized to provide grants under this section not exceeding $100,000 per eligible entity for such purpose.

'(1) define the problem of the use, manufacture, or sale of methamphetamine within the jurisdiction of the entity;
'(2) describe the public and private organization to be involved in addressing methamphetamine use, manufacture, or sale; and
'(3) describe the manner in which these organizations will participate in an cohesive, cooperative, and integrated plan to address the use, manufacture, or sale of methamphetamine.

SEC. 2994. ENFORCEMENT GRANTS.

'(a) Formula Grants.—Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount to be reserved for carry out cost of $250,000 shall be allocated to States as follows:

'(1) of $250,000, whichever is greater, shall be allocated to each State;

'(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

SEC. 2995. NATIONAL ACTIVITIES.

'The Attorney General is authorized—

'(1) to collect systematic data on the effectiveness of the programs assisted under this part in reducing the use, manufacture, and sale of methamphetamine;

'(2) to establish a national clearinghouse of information on effective programs to address the use, manufacture, or sale of methamphetamine that shall disseminate to State and local agencies describing—
“(A) the results of research on efforts to reduce the use, manufacture, and sale of methamphetamine; and

(B) information on effective programs, best practices and Federal resources to—

(i) reduce the use, manufacture, and sale of methamphetamine; and

(ii) address the physical, social, and family problems that result from the use of methamphetamine through the activities of intervention, treatment, drug courts, and family drug courts;

(3) to establish a program within the Department of Justice to facilitate the sharing of knowledge in best practices among States addressing the use, manufacture, and sale of methamphetamine through State-to-State mentoring, or other means; and

(4) to provide technical assistance to State agencies and local agencies implementing programs and securing resources to implement effective programs to reduce the use, manufacture, and sale of methamphetamine.

SEC. 2996. FUNDING.

“(a) GRANTS FOR THE PURPOSE OF CONFRONTING THE USE OF METHAMPHETAMINE.— There are appropriated to be appropriated to carry out this part—

(1) $100,000,000 for each fiscal year 2006 and 2007; and

(2) $200,000,000 for each fiscal year 2008, 2009, and 2010.

“(b) NATIONAL ACTIVITIES.—For the purposes of section 2995, there are authorized to be appropriated such sums as are necessary.

SEC. 4. STATEMENT OF CONGRESS REGARDING AVAILABILITY AND ILLEGAL IMPORATION OF PSEUDOEPHEDRINE FROM CANADA.

(a) FINDINGS.—Congress finds that—

(1) pseudoephedrine is a particularly abused basic precursor chemical used in the manufacture of the dangerous narcotic methamphetamine;

(2) the Federal Government, working in cooperation with narcotics agents of State and local governments and the private sector, has tightened the control of pseudoephedrine in the United States in recent years;

(3) in many States, pseudoephedrine can only be purchased in small quantity bottles or blister packs in retail stores throughout various States are gradually becoming tougher, reflecting the increasing severity of America’s drug problem; however, the widespread presence of large containers of pseudoephedrine from Canada at methamphetamine laboratories and dumpsites in the United States, despite efforts of law enforcement agencies to stem the flow of these containers into the United States, demonstrates the strength of the demand for, and the inherent difficulties in stemming the flow of, these containers from neighboring Canada; and

(4) Canada lacks a comprehensive legislative framework for addressing the pseudoephedrine trafficking problem.

(b) CALL FOR ACTION BY CANADA.—Congress strongly urges the President to seek commitments from the Government of Canada to begin immediately to take effective measures to stem the widespread and increasing availability in Canada and the illegal importation into the United States of pseudoephedrine.

By Mr. DeWINE (for himself and Mr. DURBIN), to introduce the Presidential Sites Improvement Act of 2005. As we look forward to celebrating President’s Day this coming Monday, I can think of no better way to honor our former Chief Executives than by passing this important piece of legislation.

The Presidential Sites Improvement Act would create a new and innovative partnership with public and private entities to preserve and maintain President’s homes, birthplaces, memorials, and tombs. It is our duty to preserve these sites so that future generations of Americans can gain a better understanding of those who influenced the development of our great Nation.

In an era when innovative technology has been incorporated into the curriculum in schools throughout the country, we often forget that one of the best learning tools is that which a child can touch and see. Visiting the birthplace or home of one of the same individuals talked about in the classroom or read about online provides a completely different atmosphere to appreciate history. The opportunity to visit the actual birthplaces, homes, memorials, and tombs gives us a real-life glimpse into the lives of our former Presidents.

Currently, family foundations, colleges and universities, libraries, historical societies, historic preservation organizations, other non-profit organizations own the majority of these sites. These entities often have little funding and are unable to meet the demands of maintaining such important sites because operating costs must be met before maintenance needs. As a result, these sites are left to deteriorate slowly.

I have visited many of the Presidential historic sites throughout my home State of Ohio, a State that has been the home of eight Presidents. I was disturbed during one such visit to the Ulysses S. Grant house. There, I saw the discoloration and falling plaster due to water damage. At the home of President Warren Harding, the front porch was pulling away from the house—the very same porch where President Harding delivered his now famous campaign speeches. Fortunately, we were able to obtain funding to prevent these two historic treasures from deteriorating further. We need to continue to provide Federal assistance for maintenance projects today in order to prevent larger maintenance problems tomorrow.

These sites are far too important to let slowly decay. Our legislation would authorize grants, administered by the National Park Service, for maintenance and improvement projects on Presidential sites that are not federally owned or managed. A portion of the funds would be set aside for sites that are emergency assistance. To administer this new program, this legislation would establish a five-member committee, including the Director of the National Park Service, a member of the National Trust for Historic Preservation, and a State historic preservation officer. This committee would make grant recommendations to the Secretary of the Interior. Each grant would require that half of the funds come from Federal sources. Up to $5 million would be made available annually.

The Presidential Sites Improvement Act would make sure that every American has the chance to appreciate a site—a chance at understanding the lives of the great men who have led our Nation.

I ask unanimous consent that the text of the legislation I have just introduced be printed in the RECORD.

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

S. 431

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 “Presidential Sites Improvement Act.”

SECTION 2. FINDINGS.

Congress finds that—

(1) there are many sites honoring Presidents located throughout the United States, including Presidential birthplaces, homes, museums, burial sites, and tombs;

(2) most of the sites are owned, operated, and maintained by non-Federal entities such as State and local agencies, family foundations, colleges and universities, libraries, historical societies, historic preservation organizations, and other nonprofit organizations;

(3) Presidential sites are often expensive to maintain;

(4) many Presidential sites are in need of capital, technological, and interpretive display improvements for which funding is insufficient or unavailable; and

(5) to promote understanding of the history of the United States by recognizing and preserving historic sites linked to Presidents of the United States, the Federal Government should provide grants for the maintenance and improvement of Presidential sites.

SECTION 3. DEFINITIONS.

In this Act:

(1) GRANT COMMISSION.—The term “Grant Commission” means the Presidential Site Grant Commission established by section 4(d).

(2) PRESIDENTIAL SITE.—The term “Presidential site” means a site that—

(A) related to a President of the United States;

(B) of national significance;

(C) is owned or operated by—

(i) a State; or

(ii) a private institution, organization, or person.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

SECTION 4. GRANTS FOR PRESIDENTIAL SITES.

(a) IN GENERAL.—The Secretary shall award grants for major maintenance and improvement projects at Presidential sites to owners or operators of Presidential sites in accordance with this section.

(b) USE OF GRANT FUNDS.—

(1) IN GENERAL.—A grant awarded under this section may be used for—

February 17, 2005

Mr. ALLEN (for himself, Mr. TALENT, Mr. GRAHAM, Mr. MCCAIN, Mr. LOTT, Mr. WARNER, Mr. GRASSLEY, and Mr. THUNE): S. 432. A bill to establish a digital and wireless technology opportunity act of 2005.

This legislation will provide vital resources to help close the technological gap that exists at many Minority Serving Institutions, MSIs. With this legislation together, as a country, we move one step closer to eliminating what I like to call the “economic opportunity divide” that exists between Minority Serving Institutions and non-minority institutions of higher education.

This legislation will establish a new grant program that provides up to $250 million a year to help Historically Black Colleges and Universities—such as Howard University, Virginia State University, Hampton University and Virginia Union University; Norfolk State University, St. Paul’s College, Virginia Union University, Hampton University and Virginia State University.

Mr. President, we must ensure that the students attending these minority institutions are competing on a level playing field when it comes to technology skills and development. We must tap the talent and potential of these students to ensure that America’s workforce is prepared to lead the world.

The legislation allows eligible institutions the opportunity through grants, contracts or cooperative agreements to acquire equipment, instrumentation, networking capability, hardware and software, digital network technology and wireless technology/infrastructure such as WiFi—to develop and provide educational services.

Additionally, the grants can be used for equipment upgrades, technology training and hardware/software acquisition. A Minority Serving Institution also can use the funds to offer its students universal access to campus networks, dramatically increase their connectivity rates, or make necessary infrastructure improvements.

The best jobs in the future will go to those who are the best prepared. However, I am increasingly concerned that when it comes to high technology jobs—which pay higher wages—this
country runs the risk of economically limiting many college students in our society. It is important for all Americans that we close this opportunity gap.

Providing equivalent technological opportunities for all Americans will have a positive impact on our education system, our economic competitiveness and future generations of innovators and leaders.

I encourage all of my colleagues to support this legislation. This exact legislation passed the Senate last year 97-0.

Mr. President, I want to thank my colleagues for joining me today in cosponsoring this legislation and I look forward to working with fellow Senators to push this important measure across the goal-line so that many more college students are provided access to better technology and education, and most importantly, even greater opportunities in life.

By Mr. ALLEN:

S. 433. A bill to require the Secretary of Homeland Security to develop and implement standards for the operation of non-scheduled, commercial air carrier (air charter) and general aviation operations at Ronald Reagan Washington National Airport; to the Committee on Commerce, Science, and Transportation.

Mr. ALLEN. Mr. President, I rise today to introduce legislation that would re-open Ronald Reagan Washington National Airport to all aviation. Since the tragic attacks of September 11, 2001, general aviation flights have not been permitted to operate in and out of Reagan National Airport. My legislation would direct the executive branch to develop and implement standards for the resumption of general aviation flights.

The closing of Reagan National to general aviation was understandable, prudent and tolerable in the weeks and months following the tragedy of September 11. The safety and security of the capital region is paramount and will always guide our decisions. But, despite Congressional action mandating a detailed plan to re-open the airport to general aviation following a massive strengthening of our airports and air traffic control system serving the Washington area, the Federal Government has done little to develop a plan that would allow for the use of Reagan National for private aircraft.

Closing Reagan National to general aviation has had a substantial negative effect on jobs and the economy of the capital region. Non-scheduled air carrier and general aviation operations at Reagan National once generated an estimated $50 million a year in direct economic activity from charter revenue, aircraft handling and refueling services. The lack of charter and general aviation passengers coming into the city, hotels, restaurants and other service businesses near Reagan National have suffered a significant, negative economic impact as well.

Since September 11, 2001, air charter operators have participated in a rigorous security program that makes their operations just as safe, if not safer, than those of commercial airlines. Charter operators also have the opportunity to check the names of their passengers against government terrorist watch lists. Given the unique location of the airport, stakeholders in the general aviation industry are willing to comply with virtually any rational requirement that would grant access to Reagan National for general aviation aircraft. Such proposals include using “gateway” airports in which all flights into Reagan National must first land for additional screening, and added screening of pilots and passengers. There are also new technological advances that could be required for private planes using Reagan National. Notwithstanding the willingness of those in general aviation to comply with reasonable security procedures that may be implemented, government agencies have remained stolidly silent on the issue.

That is why I have decided to introduce legislation directing the Department of Homeland Security to finalize and implement regulations that would again allow general aviation flights to operate at Reagan National. The measure allows for reasonable requirements to ensure the security of operations at Reagan National. The requirements include screening and certification of flight and ground crews; advance clearance of passenger manifests; physical screening of passengers and luggage; the physical inspection of aircraft; special flight procedures and limiting the airports from which flights can originate.

The Government was able to find conditions under which commercial aviation could operate out of Reagan National following the September 11 terrorist attacks. I see no reason why similar conditions or requirements could not be developed to allow for general aviation to also begin operations again.

Congressionally mandated actions on this issue have yet to result in a plan or set of circumstances that would fully re-open Reagan National. Thus, I believe it is necessary to introduce legislation that would direct the Department of Homeland Security to do so.

I agree that security is the most important factor in this debate; however I also believe reasonable requirements could not be put in place to allow the sale of general aviation flights and help the local businesses that depend on this mode of transportation for their livelihood.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 436. A bill to require the Secretary of Energy to assess the economic implications of the dependence of the State of Hawaii on oil as its principal source of energy for the State; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, in the shadow of crude oil prices that have reached nearly $50 per barrel, and with the specter of higher gasoline prices forecast by the Department of Energy’s Energy Information Administration, I want to introduce a bill that will help Hawaii and potentially other insular areas grapple with the difficult choices ahead with respect to energy independence.

The bill directs the Secretary of Energy to assess the short- and long-term prospects of oil supply disruptions and price volatility and their impacts on Hawaii. It also directs the Secretary to assess the economic relationship between oil-fired generation of electricity from residual fuel and refined products consumed for transportation needs of Hawaii. Hawaii uses crude oil to produce electricity, gasoline, and jet fuel. Changing the mix of these products will have significant economic implications for Hawaii. We need to have a clear picture of the impacts of going down these roads to a different energy mix. In addition, the study would address the technical and economic feasibility of increasing the contribution of renewable energy resources through the use of liquified natural gas, LNG, for generating electricity and other needs. In Hawaii, the costs of gasoline, electricity, and jet fuel are intertwined in an intricate relationship, because they all come from the same feedstock, and any changes in the use of one could potentially drive consumer prices up or down. We need to know the implications of increasing the percentage of renewable sources of energy or switching to LNG, and whether these choices will leave us enough residual fuel for our transportation system and jets. Finally, the bill calls for an analysis of the feasibility of production and use of hydrogen from renewable resources on an island-by-island basis, an energy source I have championed for a long time.

Hawaii is heavily dependent on imported oil. About 90 percent of the State’s energy needs for residents and visitors is produced by refining and burning crude oil. We import 28 percent of our oil from Alaska, but 72 percent comes from foreign sources including Indonesia, China, Papua New Guinea, and Vietnam. We use 26 percent of the oil for generating electricity. Being an isolated State, marine transportation between the islands is very important. Air transport for residents of Hawaii, as well as for our tourism industry, is critical. For many high school athletic and academic teams to compete in intercollegiate activities, it means getting on planes to go to another island. Many families live on multiple islands. We use 32 percent of the oil for air transportation, and 23 percent for ground and marine transportation. My State’s dependence on oil poses potentially serious risks to Hawaii if crude oil prices increase or supply disruptions as were experienced several times in the last five years alone.
Hawaii uses its energy very efficiently. Our per capita energy use is well below the national average. In part, this is due to the fact that Hawaii is blessed with comfortable climate and short driving distances. Nonetheless, we have been paying some of the highest price of energy in the country. We continue to have the highest gasoline prices in the country. For a long time our electricity rates also have been the highest in the country. Consistent high energy prices affect the affordability of energy, the quality of life, and the economic stability of the State, before we invest in a different energy mix and infrastructure, we need to make transparent the relationship between fuels and the consequences of the directions we choose.

Our State has been proactive in seeking energy solutions. The State of Hawaii has income tax credits for the installation of solar, photovoltaic, and wind energy. Hawaii has the largest solar water heating program in the Nation. Governor Linda Lingle has called for renewable energy standard by 2020. Last year we obtained about 7 percent of electricity sales from renewable sources, compared with a national average of about 2 percent. The Hawaiian Electric Company, HECO, Hawaii’s largest utility, announced in January 2003 the formation of a new subsidiary that will invest in renewable energy projects for Hawaii.

The Hawaii Energy Policy Forum, a deliberative body of over 40 community leaders and energy stakeholders, met several times over a period of a year and developed an energy vision for Hawaii through the year 2030. Its report, “Hawaii at the Crossroads; A Long-Term Energy Strategy,” identifies strategic principles for Hawaii’s future, including diversifying the sources of imported energy and beginning the transition to a long-term hydrogen economy.

Mr. President, energy security includes supply security, price security, and economic security. Supply security means ensuring that energy is available in sufficient quantities and prices at or near existing energy resources. Price security means ensuring that energy is available in sufficient quantities and prices at or near existing energy resources. Energy security means having a strategy for ensuring a reliable, affordable, and secure supply of energy.

I urge my colleagues to support this bill and ask unanimous consent that this bill be enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

S. 436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including:

(a) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(b) the economic relationship between oil-fired generation of electricity and the use of refined petroleum products for ground, marine, and air transportation;

(c) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationships described in paragraph (2).

(d) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including the economic impact of the displacement on the relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(e) the technical and economic feasibility of using hydrogen technologies (including hydrogen) for ground, marine, and air transportation and energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of the displacement on the relationship described in (2) and (6); and

(f) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

(a) ASSESSMENT.—The Secretary of Energy shall carry out the assessment under subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified persons.

(b) REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary of Energy shall carry out, in consultation with agencies of the State of Hawaii and other State and local governments, the assessment specified in section (a) of this Act, including—

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

By Mr. LEVIN:—Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including:

(a) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(b) the economic relationship between oil-fired generation of electricity and the use of refined petroleum products for ground, marine, and air transportation;

(c) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationships described in paragraph (2).

Mr. LEVIN. Mr. President, I come to the floor today to introduce a bill to address an inequity to one of Michigan's Native American tribes. The Grand River Band of Ottawa Indians, commonly referred to as the Grand River Band, has been in some form indigenous to the State of Michigan for over 200 years. The Grand River Band consists of the 19 bands of Indians who occupied the territory along the Grand River in what is now the state of Michigan, including the cities of Grand Rapids and Muskegon. The members of the Grand River Band are the descendants and political successors to signatories of the 1821 Treaty of Chicago and the 1836 Treaty of Washington. They are one of six tribes who is an original signatory of the 1855 Treaty of Detroit. However, the Grand River Band is the only one of those tribes which is not recognized by the Federal Government.

The bill I am introducing today with my colleague, Senator STABENOW, will direct the Bureau of Indian Affairs at the Department of Interior to make a recognition determination in a timely manner. Let me be clear—this bill does not federally recognize the tribe nor does it address the issue of gaming. I hope that this legislation will help to address this inequity to the Grand River Band and provide a timely remedy so that the tribe can enjoy the full benefits and status of Federal recognition.

BY MR. ENSIGN:—Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including:

(a) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(b) the economic relationship between oil-fired generation of electricity and the use of refined petroleum products for ground, marine, and air transportation;

(c) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) effects on the utility system including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationships described in paragraph (2).

(d) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including the economic impact of the displacement on the relationship described in paragraph (2) and (6); and

(e) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii.

CONTRACT.—The Secretary of Energy shall carry out the assessment under subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified persons.

REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary of Energy shall carry out, in consultation with agencies of the State of Hawaii and other State and local governments, the assessment specified in section (a) of this Act, including—

AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Mr. ENSIGN. Mr. President, I am pleased to reintroduce the Medicare Access to Rehabilitation Services Act to improve the Medicare program for our senior citizens. The bill, which enjoys the support of a majority of the Senate in the 108th Congress, would repeal the beneficiary cap on rehabilitation therapy services to ensure quality health care for Medicare patients.

The beneficiary cap is really two separate therapy caps: one cap for occupational therapy and one for both physical therapy and speech-language pathology care combined. Congress has already shown its opposition to this arbitrary cap by placing a moratorium on enforcement of the cap in 1999, 2000, and 2003. The latest moratorium will expire on January 1, 2006. Without congressional action, the cap on therapy services will be effective again in less than a year. It is time to repeal the cap once and for all.
Each year, more than 3.7 million Medicare beneficiaries receive outpatient physical therapy, occupational therapy, and/or speech-language pathology services to regain their optimum level of function and independence. For Medicare and Medicaid Services, CMS, completed a long-awaited analysis of the therapy cap policy. The report, prepared by AdvanceMed, estimates that for Calendar Year 2002, some 638,195 beneficiaries received physical therapy, and/or speech-language pathology services would have exceeded the cap threshold. This represents 23.7 percent of the outpatient therapy expenditures for that year. Failure to address the issue this year in Congress will have a significant impact on the access beneficiaries will have to necessary rehabilitation services.

It is clear from recent reports prepared for CMS that patients with debilitating illnesses and injuries would be severely impacted by enforcement of the therapy caps. Based on data from 2002, patients suffering from conditions such as stroke, Parkinson’s disease, congenital heart failure, and Dysphasia were certain to be negatively impacted by enforcement of existing statutory limits on rehabilitation coverage.

Action is needed to address the therapy caps this year. Last Congress, this bill attracted 51 Senators as cosponsors. As a member of the Senate Budget Committee, I realize the budgetary constraints that are upon Congress. I understand that we need to prioritize spending. I believe that a meaningful solution to address the rehabilitation needs of senior citizens and individuals with disabilities in the Medicare program should be a priority.

I would like to thank my colleagues, Senator Lincoln, Senator Chuck Hagel, Senator Patty Murray, Senator Jeff Bingaman, Senator Jon Corzine, Senator Tim Johnson, Senator Susan Collins, and Senator Orrin Hatch for joining me in this effort. I stand with my colleagues to enact a solution to the therapy caps that ensures access to quality rehabilitative services provided by qualified professionals.

By Mrs. Boxer (for herself and Mr. Jeffords):

S. 439. A bill to amend the Solid Waste Disposal Act to provide for secondarily treated effluent that contains tert-butyl ether and petroleum contamination; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation to protect public health and the environment by preventing chemicals from leaking out of underground storage tanks and thereby contaminating drinking water supplies and nearby communities. My colleague in the House of Representatives, Mr. Dingell, is introducing companion legislation.

Underground storage tanks can hold extremely toxic chemicals that can move rapidly through soil, contaminating the ground, aquifers, streams and other bodies of water. Underground storage tanks are located in urban and rural areas. When they leak, they present substantial risks to groundwater quality, human health, environmental quality, and economic growth.

There are approximately 670,000 underground storage tanks in the United States, and there have been more than 455,000 confirmed releases from these tanks as of mid-2005. Over 35 States report that leaking underground storage tanks are one of the top threats to their drinking water sources. By and large, MTBE contamination has come from leaking underground storage tanks. MTBE has contaminated water supplies in 43 States and in 29 States has contaminated drinking water. Estimates indicate that it will cost at least $29 billion to clean up MTBE contamination nationwide.

Currently, the leaking underground storage tank removal program and other laws ensure that responsible parties pay to clean up the damage caused by these leaking spills. Unfortunately, the pace of cleaning up leaking underground storage tanks is 20 percent below the historic average. Our Nation faces an estimated 94,000 to 150,000 additional cleanups over the next 10 years—at a cost of $12 billion to $19 billion.

The best, most commonsense solution to stop leaking underground storage tanks from threatening public health is to stop the leaks in the first place with the use of secondary containment, such as double walls. There is already widespread support for this throughout the country. Twenty-one States already require secondary containment, either for all new or replaced tanks—such as in California—or for all new or replaced tanks in sensitive areas. In addition, two States are awaiting final passage or approval of such requirements, and one state has enacted triple wall containment. According to figures from the Petroleum Equipment Institute, 57 percent of all tanks installed from 2000 through 2003 were double walled.

But this is not fast enough in the face of the threats to our drinking and groundwater. Approximately 50 percent of the population relies on groundwater for their drinking water, including almost 100 percent in rural areas. The time to prevent contamination is now.

We must ensure the environmental health and safety of our water. I encourage my colleagues to support this bill.

By Mr. Bunning (for himself and Mrs. Mikulski):

S. 440. A bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the Medicare program; to the Committee on Finance.

Mr. Bunning. Mr. President, I rise today to reintroduce an important bill that will ensure that Medicaid beneficiaries in all states have access to the services of top-quality podiatric physicians.

I am pleased that Senator Mikulski from Maryland is joining me in introducing this bill today.

Having healthy feet and ankles are critical to keeping individuals mobile, productive and in good long-term health. This is particularly true for individuals with diabetes.

According to the Centers for Disease Control and Prevention, CDC, over 20 million Americans have diabetes, and it is the sixth leading cause of death in this country. Each year, over 200,000 Americans die from this disease.

If not managed properly, diabetes can cause several severe health problems, including eye disease or blindness, kidney disease and heart disease. Too often, diabetes can lead to foot complications, including foot ulcers and that podiatric services are not needed, or that beneficiaries will not seek out other providers to perform these services. Instead, Medicaid beneficiaries will have to receive foot care from other providers who may not be as well trained as a podiatrist in treating lower extremities.

It is important to note that podiatrists are considered physicians under the Medicare program, which allows seniors and disabled individuals to receive appropriate care.

I urge my colleagues to give careful consideration to this important bill. It will help many Medicaid beneficiaries across the country have access to podiatrists that they need.

Finally, I thank the Senator from Maryland for helping me introduce this legislation today. I hope that by working together we can see this important change made.

Mr. Mikulski. Mr. President, I rise to join Senator Bunning to introduce this important bill to make sure that Medicaid patients have access to care provided by podiatrists.

This bill ensures that Medicare patients across the country can get services provided by podiatrists. This is a simple, common sense bill. This legislation includes podiatric physicians in...
Medicaid's definition of physician. This means that the services of podiatrists will be covered by Medicaid, just like they are in Medicare. Podiatrists are considered physicians under Medicare. They should be under Medicaid. Medicaid pays for necessary foot and ankle care services. Medicaid should allow podiatrists who are trained specifically in foot and ankle care to provide these services and be reimbursed for them.

The services of podiatrists are considered optional under Medicare. Currently, most state Medicaid programs, including Maryland, recognize and reimburse podiatrists for providing foot and ankle care to their beneficiaries. However, during times of tight budgets, states may choose to cut back on these optional services. Recently, Connecticut, and Texas discontinued podiatric services. Even though podiatrist services are considered optional, Medicaid patients need foot and ankle care. If they do not provide the care, patients will see providers who may not be as well trained in the care of the lower extremities as podiatrists. I want the 500,000 Medicaid patients in Maryland to have access to the services provided by over 400 podiatrists in Maryland.

Podiatrists receive special training on the foot, ankle, and lower leg. They play an important role in the recognition of systemic diseases like diabetes, and in the recognition and treatment of peripheral neuropathy, a frequent cause of diabetic foot wounds that can often lead to preventable lower extremity amputations. Over 18 million people in the United States have diabetes, but an estimated more than 5 million of these people are not aware that they have the disease.

The President's budget challenges Congress to make major cuts to Medicaid. If podiatrists do not provide the care, patients will see providers who may not be as well trained in the care of the lower extremities as podiatrists. I want the 500,000 Medicaid patients in Maryland to have access to the services provided by over 400 podiatrists in Maryland.

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cooperating witness may be, for example, a customer being harmed by the conspiracy or a co-conspirator to the antitrust crime. Under this approach, a cooperating witness may testify about the details of the conspiracy or may report conversations with the conspirators, even though the witness did not include or authorize any wiretap or audiotape. One important restriction is that the cooperating witness must be present at the conversation when recording. But, if the Department cannot secure a cooperating witness, which is often the case, this technique is not available.

Second, the Antitrust Division also has a corporate leniency program, which has been very successful in investigating and prosecuting criminal antitrust conspiracies. In exchange for fully cooperating with an antitrust investigation, an otherwise guilty corporation may receive lenient treatment. But, this method, too, depends on the cooperation of one who was on the inside of the criminal conspiracy.

Our bill adds a third technique by amending Title III of the Omnibus Crime Control and Safe Streets Act (18 U.S.C. Section 2510 et seq.) to make a criminal violation of the Sherman Act a "predicate offense" for an order authorizing the interception of wire or oral communications, hereinafter "wiretap order". Amending this law to make criminal antitrust offenses a predicate offense would give the Department a much needed tool to investigate the inner workings of criminal antitrust conspiracies. Unlike using a cooperating witness or the corporate leniency program, a wiretap order does not require the cooperation of someone who has inside knowledge of the conspiracy or who is actually participating in the conspiracy. Upon a showing of probable cause to a Federal judge, the Department of Justice could obtain a wiretap order, for a limited time period, to monitor communications between conspirators.

There are over 150 predicate offenses from title 18 and dozens of other predicate offenses from other parts of the U.S. Criminal Code. Offenses, such as wire fraud, mail fraud, and bank fraud are predicate offenses, but up to now, criminal antitrust offenses have not been on the list. I think this is a mistake. Criminal antitrust offenses are basically white-collar, fraud offenses, and often do much more harm to innocent consumers than other types of fraud offenses. It is time for antitrust to be added as a predicate offense, given the gravity of the crime.

This idea is not new. Past Assistant Attorney Generals of the Antitrust Division have supported the idea for such legislation. And, in 1999, our neighbor to the north, Canada, passed similar legislation. It is an idea whose time has come.

I urge my colleagues to support this important reform to strengthen the enforcement of our antitrust laws. I ask unanimous consent to print the bill in the RECORD.
to need an additional 1.2 million nursing aides, home health aides, and other health professionals in long-term care before the year 2010.

As our demand for health care workers grows, so does the number of jobs available within this sector. Currently, health services is the largest industry in the country, providing 12.9 million jobs in 2002. It is estimated that 16 percent of all new jobs created between 2002 and 2012 will be in health services. This accounts for 3.5 million new jobs—more than any other industry. According to the Wisconsin Department of Workforce Development, the surging job growth within health care will translate into a real need for workers and real opportunity. In Wisconsin alone, there will be an additional 67,430 health care positions by 2012. This represents a 30 percent increase in jobs in health care, over twice the rate of growth for Wisconsin jobs overall.

Mr. President, workforce development agencies in my home State of Wisconsin are already working to support displaced workers in their communities by training them for health care jobs, since there is a real need for workers in these fields. These agencies are helping communities get and maintain access to high-quality health care by ensuring that there are enough health care workers to care for their communities.

As the executive director of one of the workforce development boards in my State put it, "[t]here are simply not many good quality jobs to replace manufacturing jobs lost to rural communities. The medical professions, by offering a 'living wage' and good benefits, provide an excellent alternative to manufacturing for sustaining a higher, family oriented standard of living."

I believe we need to support our communities in these efforts by providing them with the resources they need to establish, sustain, or expand these important programs. For that reason, today I am introducing the Community-Based Health Care Retraining Act. This bill would amend the Workforce Investment Act to authorize a demonstration project to provide grants to community-based coalitions, led by local workforce development boards, to create programs to retrain unemployed workers who wish to obtain new jobs in the health care professions. My bill would authorize a total of $25 million for grants between $100,000 and $500,000, and, in the interest of fiscal responsibility, it ensures that the cost of these grants would be offset.

This bill will help provide communities with the resources they need to run retraining programs for the health professions. The funds could be used for a variety of purposes—from increasing the capacity of our schools and training facilities, to providing financial and nonfinancial assistance to workers who are in retraining programs. This bill allows for flexibility in the use of grant funds because I believe that communities know best about the resources they need to run an efficient program.

This bill represents a nexus in my efforts to support workers whose jobs have been shipped overseas and to ensure that all Americans have access to the high-quality health care that they deserve. By providing the assistance to train laid-off workers who wish to obtain new jobs in the health care sector, we can both help unemployed Americans and improve the availability and quality of health care that is available in our communities.

I am pleased that this bill is supported by a variety of organizations that are committed to providing high-quality job training and health care services, including the National Association of Workforce Boards, the Wisconsin Association of Job Training Executives, the Wisconsin Hospital Association, the Northwest Wisconsin Concentrated Employment Program, the Northwest Wisconsin Workforce Investment Board, the Wisconsin Workforce Development Board, the West Central Wisconsin Workforce Development Board, and the Workforce Development Board of South Central Wisconsin.

Mr. President, in order to ensure that our workers are able to compete in the new economy, we must ensure that they have the tools they need to be trained or retrained for high-demand jobs such as those in the health care field. My bill is a small step toward providing the resources necessary to achieve this goal. I will continue to work to strengthen the American manufacturing sector and to support those workers who have been displaced due to bad trade agreements and other policies that have led to the loss of American jobs.

By Ms. STABENOW (for herself, Mr. CARPER, Mr. KENNEDY, Mr. SCHUMER, Mr. BINGAMAN, and Mr. JOHNSON):

S. 445. A resolution to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I am introducing the Medicare Prescription Drug Price Negotiation Act of 2005, and am pleased to be joined by my colleagues, Senators CARPER, KENNEDY, SCHUMER, BINGAMAN, and JOHNSON.

This legislation is very simple and very straightforward: it would allow the Secretary of Health and Human Services to negotiate directly with pharmaceutical manufacturers on behalf of our seniors and the disabled to get the lowest possible prices.

Last week we learned that the Medicare prescription drug benefit will cost more than $1 trillion dollars—$1.2 trillion to be exact—just for the years 2006 through 2015.

Some of our colleagues are responding to the news of the $1.2 trillion price tag with plans to reduce the benefit. But the benefit as currently structured is far from comprehensive. Seniors are responsible for $120 in premiums, and a $250 deductible before they get one penny of help from their prescription drugs. Once the benefit kicks in, they will face a hefty co-payment, and many will fall into the infamous "hole" in the benefit and—at the same time they continue to pay premiums—not get any assistance at all.

Even with a $1.2 trillion pricetag, our seniors will have to shoulder two-thirds of the cost of their prescription drugs. Neither the seniors and disabled, nor the taxpayers, should be paying so much for so little.

Last week's news of the cost of the benefit makes it clear that we must give Medicare the ability to use the market power of 41 million people to secure the lowest prices possible for seniors, the disabled, and the American taxpayer.

Our response to the new cost estimate shouldn't be to reduce the already meager benefit but to use our influence more efficiently. The change that my colleagues and I are seeking would allow us to improve the drug benefit—by lowering the cost of the drugs, we could fill in the gaps in coverage and provide a more meaningful benefit.

Former HHS Secretary Thompson knows what every smart buyer knows: the more you are buying of anything, the better deal you get. We all know that Sam's Club gets the best prices on breakfast cereal, batteries, and paper towels because they represent a huge market.

And now that Secretary Leavitt is tasked with running the program, we should give him as many tools as possible to run this program at the lowest possible cost.

Today the only entity in this country that cannot bargain for lower group prices is Medicare. The States, Fortune 500 companies, large pharmacy chains, and the Veterans' Administration use their bargaining clout to obtain lower drug prices for the patients they represent.

Medicare should have that same ability. It doesn't make any sense to prohibit the Secretary from using the clout of our 41 million seniors to help get them the best possible prices on prescription drugs.

I urge my colleagues to join me in passing this commonsense approach to providing real savings for our seniors and the disabled, and ensuring the most efficient use of taxpayer dollars.

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. 445

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 “Medicare Prescription Drug Price Reduction Act of 2005”.

SEC. 2. NEGOTIATING FAIR PRICES FOR MEDICARE PRESCRIPTION DRUGS.

Section 1860D-11 of the Social Security Act (42 U.S.C. 1395w–111) is amended by striking subsection (i) (relating to noninterference) and by inserting the following:

“(1) AUTHORITY TO NEGOTIATE PRICES WITH MANUFACTURERS.—In order to ensure that each part D eligible individual who is enrolled under a prescription drug plan or an MA–PD plan pays the lowest possible price for covered part D drugs, the Secretary shall have authority similar to that of other Federal entities that purchase prescription drugs in bulk to negotiate contracts with manufacturers for covered part D drugs, consistent with the requirements of this part and in furtherance of the goals of providing quality care and containing costs under this part.”

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 446

To direct the Director of the Federal Emergency Management Agency to designate New Jersey Task Force 1 as part of the National Urban Search and Rescue Response System; to the Committee on Environment and Public Works.

Mr. CORZINE. Mr. President, I rise today to offer legislation that would designate New Jersey’s elite urban search and rescue team, New Jersey Task Force One, as part of the National Urban Search and Rescue Response System.

I am proud to be joined by my colleagues from New Jersey, Senator FRANK LAUTENBERG, in introducing this legislation today. And I am also pleased to note that my colleague, Congressman RODNEY FEELINGHUYSSEN, has introduced similar legislation in the House of Representatives.

New Jersey Task Force One is a team comprised of career and volunteer fire, police, and EMS personnel from all 21 counties in New Jersey. The primary mission of the NJTFO is to provide advanced technical search and rescue capabilities to victims who are trapped or entombed in collapsed buildings. The NJTFO is a world-class operation whose response system mirrors the Federal Emergency Management Agencies guidelines on urban search and rescue and the appropriate National Fire Protection Association Standards.

The training, commitment, and expertise of the NJTFO has saved lives. In fact, New Jersey Task Force One was one of the first units to arrive on the scene at the World Trade Center on September 11, and they bravely conducted search, rescue, medical, and planning and logistics operations on site.

In this era of terrorism and heightened homeland security we should be doing all we can to show our commitment to our first responders. This designation would do just that for New Jersey Task Force One. More importantly, by making NJTFO a part of the National Urban Search and Rescue Response System the United States is ensuring that federal funding is that vital to helping them fulfill their mission. The honor of joining the other 28 members of the National Urban Search and Rescue Response System is a recognition that the NJTFO is truly deserving of.

I urge the Senate to enact this legislation and ask for a copy of this bill to be printed in the RECORD.

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

S. 446

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

SECTION 1. ADDITION OF TASK FORCE TO NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.

(a) FINDINGS.—Congress finds that—

(1) the terrorist attacks of September 11, 2001, demonstrated the importance of enhancing national terrorism preparedness;

(2) 26 of the 28 urban search and rescue task forces included in the National Urban Search and Rescue Response System of the Federal Emergency Management Agency were called into action in the wake of the events of September 11;

(3) highly qualified, urban search and rescue teams not included in the National Urban Search and Rescue Response System were the first teams in New York City on September 11;

(4) the continuing threat of a possible domestic terrorist attack remains an important mission for which the United States must prepare to respond; and

(5) part of that response should be to increase the number of urban search and rescue task forces included in the National Urban Search and Rescue Response System.

(b) ADDITION OF NEW JERSEY TASK FORCE 1.—The Director of the Federal Emergency Management Agency shall designate New Jersey Task Force One as part of the National Urban Search and Rescue Response System.

By Mr. DOMENICI:

S. 447

A bill to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DOMENICI. Mr. President, today I rise to introduce an uncontroversial piece of legislation that I hope will receive prompt committee action and will make its way quickly to the President’s desk for his signature.

I would first like to familiarize the Senate with the important mission and related work of the Chihuahuan Desert Nature Park in Las Cruces, NM. The Chihuahuan Desert is the largest desert in North America and contains a great diversity of unique plant and animal species. The ecosystem makes up an indispensable part of Southwest’s treasured ecological diversity. As such, it is important that we teach our children about the value of New Mexico’s biological diversity and impede upon the value of this ecological treasure.

The Chihuahuan Desert Nature Park is a nonprofit institution that has spent the past 6 years providing hands-on science education to K-12th graders. To achieve this mission, the Nature Park provides classroom presentation, field trips, schoolyard ecology projects, and after school and teacher workshops. The Nature Park serves more than 11,000 students and 600 teachers annually. This instruction will enable our future leaders to make informed decisions about how best to manage these valuable resources. I urge the Senate to enact this legislation and ask for a copy of this bill to be printed in the RECORD.

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

S. 447

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 “Jornada Experimental Range Transfer Act of 2005”.

SEC. 2. DEFINITIONS.

In this Act—

(1) BOARD.—The term “Board” means the Chihuahuan Desert Nature Park Board;

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. CONVEYANCE OF LAND TO CHIHUAHUAN DESERT NATURE PARK BOARD.

(a) CONVEYANCE.—The Secretary may convey to the Board, by quitclaim deed, for no consideration, all right, title, and interest of the United States in and to the land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) consists of not more than 1000 acres of land selected by the Secretary—

(1) that is located in the Jornada Experimental Range in the State of New Mexico; and

(2) that is subject to an easement granted by the Agricultural Research Service to the Board;

(c) CONDITIONS.—The conveyance of land under subsection (a) shall be subject to—

(1) the condition that the Board pay—
(A) the cost of any surveys of the land; and
(B) any other costs relating to the conveyance;

(2) any rights-of-way to the land reserved by the Secretary;

(3) a covenant or restriction in the deed to the land described in subsection (b) requiring that—

(A) the land may be used only for educational purposes;

(B) if the land is no longer used for the purposes described in subparagraph (A), the land shall, at the discretion of the Secretary, revert to the United States; and

(C) if the land is determined by the Secretary to be environmentally contaminated under paragraph (2) of subparagraph (A), the Board shall remediate the contamination; and

(4) any other terms and conditions that the Secretary determines to be appropriate.

(d) REVERSION.—If the land conveyed under subsection (a) is no longer used for the purposes described in subsection (c)(3)(A)—

(1) the land shall, at the discretion of the Secretary, revert to the United States; and

(2) if the Secretary chooses to have the land revert to the United States, the Secretary shall—

(A) determine whether the land is environmentally contaminated, including contamination from hazardous wastes, hazardous substances, pollutants, contaminants, petroleum by-products, and any other materials; and

(B) if the Secretary determines that the land is environmentally contaminated, the Board or any other person responsible for the contamination shall remediate the contamination.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Ms. CANTWELL, and Mrs. MURRAY):

S. 448. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wannamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to the civil rights and dignity of the Native peoples of Alaska and the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Ms. MURKOWSKI. Mr. President, this week the people of my State of Alaska pause to recognize two giant figures in the fight for equal rights and justice under the law, the late Elizabeth and Roy Peratrovich. On February 16, 2005, the State of Alaska once again observed Elizabeth Peratrovich Day. Activities to celebrate the legacy of Elizabeth and Roy Peratrovich are taking place in schools and cultural centers throughout Alaska this week. This coming Saturday, the Alaska Native Heritage Center in Anchorage will conduct a day-long celebration of the Peratrovich legacy.

Roy and Elizabeth are to the Native peoples of Alaska what Dr. Martin Luther King, Jr., and Rosa Parks are to African Americans. Everybody knows about Dr. Martin Luther King, Jr. and Rosa Parks, but hardly anyone outside the State of Alaska knows about Roy and Elizabeth Peratrovich. Today, I rise to once again share the Peratrovich legacy with the Senate.

Elizabeth was born in 1911, about 17 years before Dr. King. She was born in Petersburg, AK. After college she married Roy Peratrovich, a Tlingit from Klawock, AK, and the couple had three children. Roy and Elizabeth moved to Juneau. They were excited about buying a new home. But they could not buy the house that they wanted because they were Native. They could not get a mortgage, they could not get insurance. Outside some of these stores and restaurants there were signs that read “No Natives Allowed.”

History has also recorded a sign that read “No Dogs or Indians Allowed.”

On December 7, following the invasion of Pearl Harbor, Elizabeth and Roy wrote to Alaska’s Territorial Governor:

In the present emergency our Native boys are being called upon to defend our beloved country. There are no distinctions being made there. Yet, when we patronized good business establishments we are told in most cases that Natives are not allowed.

The proprietor of one business, an inn, does not seem to realize that our Native boys are just as willing to lay down their lives to protect the freedom he enjoys. Instead he shows his appreciation by having a ‘No Natives Allowed’ sign on his door.

In that letter Elizabeth and Roy noted:

We were shocked when the Jews were discriminated against in Germany. Stories were told of public places having signs, “No Jews Allowed.” All freedom loving people were horrified at what was being practiced in Germany, yet it is being practiced in our own country.

In 1943, the Alaska Legislature, at the behest of Roy and Elizabeth considered an antidiscrimination law. It was defeated. But Elizabeth were not defeated. Two years later, in 1945, the antidiscrimination measure was back before the Alaska Territorial Legislature. It passed the lower house, but met with stiff opposition in the Territorial Senate. One by one Senators took to the floor to debate the closely contested legislation. One Senator argued that “the races should be kept further apart.” This Senator went on to rhetorically ask, “Who are these people, barely out of savagery, and races should be kept further apart.”

Elizabeth Peratrovich was observing the debate from the gallery. As a citizen, she asked to be heard and in accordance with the custom of the day was recognized to express her views. In a quiet, dignified and steady voice this “fighter with velvet gloves” responded, “Mr. Senator, I, who am barely out of savagery, would have to remind gentlemen with 5,000 years of recorded civilization behind us”.

Elizabeth Peratrovich was recognized to express her views. In a quiet, dignified and steady voice this “fighter with velvet gloves” responded, “Mr. Senator, I, who am barely out of savagery, would have to remind gentlemen with 5,000 years of recorded civilization behind us.”

Elizabeth Peratrovich described the day in 1945. She passed away in 1958 at the age of 47, 6 years before civil rights legislation would pass nationally.

In addition to the annual observance of Elizabeth Peratrovich Day, the State of Alaska has acknowledged Elizabeth Peratrovich’s contribution to history by designating one of the public galleries in the Alaska House of Representatives as the Elizabeth Peratrovich Gallery.

But what about Roy? Why has his role not been recognized? Roy Peratrovich passed away in 1989 at age 81. He died 9 days before the first Elizabeth Peratrovich Day was observed in the State of Alaska. Perhaps this was because Roy was still alive at the time this honor was bestowed, it is Elizabeth who has gotten all the credit for passage of the antidiscrimination law.

Members of the Peratrovich family tell me that this is not entirely unjustified because without Elizabeth’s stirring speech the antidiscrimination law would not have passed. But they also point out, as does the historical record, that Elizabeth and Roy were a focused and effective team. History should recognize that the antidiscrimination law was enacted due to the joint efforts of Roy and Elizabeth Peratrovich. I rise today to do my part toward that end.

Joined by my colleagues, the distinguished senior Senator from Alaska, Mr. STEVENS, and my distinguished colleague from the State of Washington, Ms. CANTWELL, I am pleased to once again offer legislation to recognize the contributions of Roy and Elizabeth Peratrovich with a Congressional Gold Medal. I invite all of my colleagues to join with me in cosponsoring this important legislation. Congressional Gold
Medals have been awarded to a number of African Americans who have made contributions to the cause of civil rights, among them, Rosa Parks, Roy Wilkins, Dorothy Height, the nine brave individuals who desegregated the schools of Little Rock, Arkansas, and others involved in the effort to desegregate public education.

With the opening of the very popular National Museum of the American Indian last year our Nation is focusing on the many contributions of our first peoples and the challenges they have faced throughout our Nation’s history. It is time that we also acknowledge the work of American Indians, Alaska Natives and Native Hawaiians in the struggle for civil rights and social justice. Honoring Elizabeth and Roy Peratrovich’s substantial contribution with a Congressional Gold Medal is a fine start.

I ask unanimous consent that the text of the bill be printed in the Record, as follows:

S. 448

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Elizabeth Wanamaker, a Tlingit Indian, was born on July 4, 1911, in Petersburg, Alaska.

(2) Elizabeth married Roy Peratrovich, a Tlingit Indian from Klawock, Alaska, on December 15, 1931.

(3) In 1941, the couple moved to Juneau, Alaska.

(4) Roy and Elizabeth Peratrovich discovered that they could not purchase a home in the section of Juneau in which they desired to live due to discrimination against Alaska Natives.

(5) In the early 1940s, there were reports that some businesses in Southeast Alaska posted signs reading “No Natives Allowed”.

(6) Roy, as Grand President of the Alaska Native Brotherhood, and Elizabeth, as Grand President of the Alaska Native Sisterhood, petitioned the Territorial Governor and the Territorial Legislature to enact a law prohibiting discrimination against Alaska Natives in public accommodations.

(7) Rebuffed by the Territorial Legislature in 1943, they again sought passage of an anti-discrimination law.

(8) On February 8, 1945, as the Alaska Territorial Senate debated the anti-discrimination law, Elizabeth, who was sitting in the visitors’ gallery of the Senate, was recognized to present her views on the measure.

(9) The eloquent and dignified testimony given by Elizabeth that day is widely credited for passage of the anti-discrimination law.

(10) On February 16, 1945, Territorial Governor Ernest Gruening signed into law an act prohibiting discrimination against all citizens within the jurisdiction of the Territory of Alaska in access to public accommodations and imposing a penalty on any person who assisted or participated in any way, printed or written, to discriminate against racial groups of such full and equal enjoyment.

(11) 19 years before Congress enacted the Civil Rights Act of 1964, and 18 years before the Reverend Dr. Martin Luther King, Jr. delivered his “I Have a Dream” speech, one of America’s first antidiscrimination laws was enacted in the Territory of Alaska, thanks to the efforts of Elizabeth and Roy Peratrovich.

(12) Since 1989, the State of Alaska has observed Elizabeth Peratrovich Day on February 16 of each year, and a visitor’s gallery of the Alaska House of Representatives in the Alaska State Capitol has been named for Elizabeth Peratrovich.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President, acting in the capacity of the Congress, to posthumously award a gold medal of appropriate design to Elizabeth Wanamaker Peratrovich and Roy Peratrovich, in recognition of their lifelong and enduring contributions to the civil rights and dignity of the Native peoples of Alaska and the Nation.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the “Secretary”) shall strike a gold medal of appropriate design to Elizabeth Wanamaker Peratrovich and Roy Peratrovich, in recognition of their lifelong and enduring contributions to the civil rights and dignity of the Native peoples of Alaska and the Nation.

SEC. 3. DUPLICATE MEDALS.

Under such regulations as the Secretary may prescribe, the Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 at a price sufficient to cover the cost thereof, including labor, materials, machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. STATUS AS NATIONAL MEDALS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be charged against the United States Mint Public Enterprise Fund to the credit of the Secretary, such sums as may be necessary to pay for the cost of the medals authorized under section 2.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under this Act shall be deposited in the United States Mint Public Enterprise Fund.

By Ms. MURKOWSKI:

S. 448. A bill to facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes; to the Committee on Indian Affairs.

Ms. MURKOWSKI. Mr. President, more than 30 years have passed since Congress enacted the Alaska Native Claims Settlement Act which settled the claims of the first inhabitants of Alaska by making each eligible Alaska Native a shareholder in 1 of 13 regional corporations and many of these people shareholders in a village corporation as well. Each of the corporations was capitalized with land and money.

The Alaska Native Claims Settlement Act was a bold experiment, and its implementation was not without controversy. As originally enacted, the law provided that a shareholder of an Alaska Native Corporation could sell his or her stock on or after December 18, 1991, without any intervening action by the corporation.

This provision could have resulted in massive sales of stock by Native shareholders in the ensuing years and caused the wholesale transfer of Native assets to non-Native interests. Thanks to the leadership of the Senator from Alaska, Mr. STEVENS, this catastrophe was averted through amendments to the Act, signed into law in 1987, which forbade the sale of corporate stock without the consent of the corporation’s shareholders.

This landmark legislation brought an end to the speculation about whether the Native corporations would survive long enough to fulfill the goal that Congress set for them, which was to be the springboard for the economic, social and political empowerment of Alaska’s Native people, or alternatively execute the temporary transfer of land and capital which would ultimately end up in non-Native hands.

I am proud, that none of the Native corporations have opened their stock to sale by outsiders. I see nothing on the horizon to suggest that any of the corporations will take up this question in the foreseeable future.

If history is any guide, the Alaska Native Corporations are destined to remain the Native homeland for a long time to come. This is good news for the Native people of Alaska and it is good news for my State as a whole.

I rise today to offer legislation, requested by the Alaska Federation of Natives and the Alaska Native corporations, which is intended to address a piece of unfinished business left by the 1987 amendments to the Act.

Under the act, as originally passed, stock in an Alaska Native corporation was generally only available to an Alaska Native born on or before December 18, 1971 and those who might inherit stock from a deceased shareholder. The original legislation gave little thought to offering those born after December 18, 1971 a role in the corporation.

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The 1987 amendments allowed the shareholders of a Native corporation to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes;

the Committee on Indian Affairs.

Ms. MURKOWSKI. Mr. President, more than 30 years have passed since Congress enacted the Alaska Native Claims Settlement Act which settled the claims of the first inhabitants of Alaska by making each eligible Alaska Native a shareholder in 1 of 13 regional corporations and many of these people shareholders in a village corporation as well. Each of the corporations was capitalized with land and money.

The Alaska Native Claims Settlement Act was a bold experiment, and its implementation was not without controversy. As originally enacted, the law provided that a shareholder of an Alaska Native Corporation could sell his or her stock on or after December 18, 1991, without any intervening action by the corporation.

This provision could have resulted in massive sales of stock by Native shareholders in the ensuing years and caused the wholesale transfer of Native assets to non-Native interests. Thanks to the leadership of the Senator from Alaska, Mr. STEVENS, this catastrophe was averted through amendments to the Act, signed into law in 1987, which forbade the sale of corporate stock without the consent of the corporation’s shareholders.

This landmark legislation brought an end to the speculation about whether the Native corporations would survive long enough to fulfill the goal that Congress set for them, which was to be the springboard for the economic, social and political empowerment of Alaska’s Native people, or alternatively execute the temporary transfer of land and capital which would ultimately end up in non-Native hands. I am proud, that none of the Native corporations have opened their stock to sale by outsiders. I see nothing on the horizon to suggest that any of the corporations will take up this question in the foreseeable future.

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The 1987 amendments allowed the shareholders of a Native corporation to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes;
born after December 18, 1971 is an imperfect one. This is sad because one of the most important responsibilities faced by the Board of Directors of any corporation is to plan for its own success and the succession of the corporation's leadership.

Since 1987, less than a handful of the 13 regional Native corporations have put the question of enrolling the next generation to their shareholders. However, all of the corporations that have considered the question have voted in the affirmative.

Why then have more corporations not taken the question to a vote? The answer seems to lie in the voting requirements imposed by the 1987 amendments, which essentially requires an affirmative vote of a supermajority of the shares represented in person or by proxy at a shareholder meeting. In order for a corporation to obtain an affirmative vote of a majority of its outstanding shares, something of the order of 80 percent of the corporation's stockholders must be represented at the meeting in person or by proxy. Under present law, any shareholder who does not attend the meeting or submit a proxy is deemed to have voted in the affirmative.

When Doyon, Limited, the regional Native corporation for Interior Alaska, took the question of enrolling the generation of descendants born between 1971 and 1992 to its shareholders at its 1992 annual meeting, some 79.2 percent of the shareholders expressed an opinion in person or proxy. Still, the decision to approve the enrollment passed by the narrowest of margins. This was a record quorum for the corporation, which had 9,061 original shareholders, and the record has yet to be broken.

Sealaska Corporation, the regional Native corporation for Southeast Alaska, has had more original shareholders than any other regional Native corporation in Alaska. Sealaska had 15,700 original shareholders, each owning 100 shares of stock. Sealaska has never enjoyed a quorum of 79.2 percent and is pessimistic that such a quorum could ever be mustered. Accordingly, Sealaska, which has been pondering the question of enrolling the next generation for many years, has been deterred from putting the question to a stockholder vote by the supermajority voting requirement in the 1987 amendment.

Whether enrolling the generation born after 1971 is not up to me. It is up to the shareholders of Sealaska. But I think the Congress owes it to the next generation of Alaska Natives to offer a level playing field when it comes to participation in their Native corporations.

In addressing the Alaska Native community, I often make reference to a marvelous book by Alexandra J. McClanahan entitled "Growing Up Native in Alaska." In this book, A.J. profiled 27 Alaska Natives born between 1957 and 1976 and allowed them in their own words to speak about what it means to be an Alaska Native. Some of the people profiled in the book received stock under the 1971 act while others missed the deadline. I will quote from this book for the RECORD.

One of these 27 Alaska Natives is Jaeleen Kookesh-Araujo, a Tlingit Inuit who grew up in the village of Angoon, AK. Jaeleen is a bright young attorney who works at one of Washington's most respected law firms. She is precisely the type of person who is well positioned to lead her regional corporation in the future, and she is one of many Alaska Natives who was born after December 18, 1971. Jaeleen has an opportunity to participate in Sealaska's governance because her parents gave her some of their stock as a gift. Don't even belong to. I do want to believe that others of her generation have been left out.

This is what Jaeleen said about why it is important to make stock available to the descendants.

I am a shareholder thanks to my parents gifting me shares, but there are a lot of young people who are never going to be shareholders. If you have one parent with several children, they can try to allocate shares to all of them, but some may be left out. Or, maybe you have a Native child who has been adopted who doesn't have parents who are shareholders. Are going to be a lot of young Native people left out of this corporate structure, and it's really sad. Eventually, there may be a problem because you're going to have a lot of young, talented Alaska Native people going out to get educated. They're going to have a lot of experience and insight that might benefit the corporation, and yet you have to wonder if they're really going to want to be involved in these Native corporations that they don't even belong to.

I am not going to tell you that each of the 27 young people that A.J. profiled feels the same way. Another young Native profiled in A.J.'s book supported the status quo in spite of the fact that he was born 2 days after the cutoff. I really don't think it's necessary to adjust for the future generations. The idea of gifting and willing stock is a really efficient method, and I think we ought to stick with that, rather than having to expand and degrade the stock, allowing the children to be shareholders. It's unfair that we as children born after December 18th are not shareholders, but in order to keep the integrity of the stock, I think it's essential that we continue on with the method of granting, gifting and willing stock.

The final quote is from a Doyon shareholder who was involved in that company's decision to make new stock available to those born between 1971 and 1992.

When I first started I thought, "I don't want my daughter to be involved." I was an intern in Doyon's Shareholder Relations, so I was involved in the committee that was studying the issue to enroll children born after 1971. When the time came to vote, I thought: "Darned if I'm letting my nieces and nephews not be involved." I was a total turnaround. There was no way I was going to leave them out. There was no difference between me and them. They were just born later.

As you can see, there may not be unanimity on the question of whether new stock should be made available to the descendants. But I think we all can agree that the debate is a healthy one and the debate will not take place in Congress. Congress relaxes the supermajority standard imposed by the 1987 amendments.

The legislation I am introducing today would allow the shareholders of a regional corporation to authorize new stock for those born after December 18, 1971 by a majority vote of the shares present and voting at a duly constituted meeting of the shareholders. Shareholders who want to make the stock available will have the opportunity to vote yes. Those who do not will have the opportunity to vote no. Those who choose not to participate, place the fate of the question in the hands of those who choose to participate. The majority prevails.

The 1987 amendments authorized Native corporations to make additional shares available to Native elders and to enroll those who were eligible to receive such stock as orphans of dead shareholders but who failed to enroll. The number of missed enrollees is expected to be small. My legislation would change the voting standard for these two categories to a majority of the shares present and voting.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

As no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. TECHNICAL AMENDMENT TO ALASKA NATIVE CLAIMS SETTLEMENT ACT. Section 36(d)(3) of the Alaska Native Claims Settlement Act (28 U.S.C. 1629b) is amended—

(1) by striking "(d)(3)" and inserting "(3)";

(2) in the matter preceding subparagraph (1) by striking "(d)(3)" and inserting "(3)";

(3) in subparagraph (A) of Section 36(d)(3) of the Alaska Native Claims Settlement Act of 1980 (28 U.S.C. 1629b) is amended—

(a) by striking "or" and inserting "and";

(b) by striking "such resolution and inserting "the resolution or amendment to articles of incorporation".

By Mrs. CLINTON (for herself, Mrs. BOXER, Mr. KERRY, Mr. LUTTENBERG, and Ms. MIKULSKI)
TITLE I—VOTER VERIFICATION AND AUDITING

SEC. 101. Requirements for casting and counting provisional ballots.

SEC. 102. Requirements for jurisdictions with substantial voter wait times.

SUBTITLE C—COLLECTION AND DISSEMINATION OF ELECTION DATA

SEC. 321. Data collection.

SEC. 322. Required use of voter-verified paper record.

TITLE D—ENSURING WELL RUN ELECTIONS

SEC. 381. Training of election officials.

SEC. 382. Improvements to election security.

SUBTITLE E—STANDARDS FOR PURGING VOTERS

SEC. 341. Standards for purging voters.

SUBTITLE F—ELECTION DAY REGISTRATION AND EARLY VOTING

SEC. 351. Election day registration.

SEC. 352. Early voting.

TITLE IV—VOTER REGISTRATION AND IDENTIFICATION

SEC. 401. Voter registration.

SEC. 402. Establishing voter identification.


TITLE V—PROHIBITION ON CERTAIN CAMPAIGN ACTIVITIES

SEC. 501. Prohibition on certain campaign activities.

TITLE VI—ENDING DECEPTIVE PRACTICES

SEC. 601. Ending deceptive practices.

TITLE VII—CIVIC PARTICIPATION BY EX-OFFENDERS

SEC. 701. Voting rights of individuals convicted of criminal offenses.

TITLE VIII—FEDERAL ELECTION DAY ACT

SEC. 801. Short title.

SEC. 802. Federal Election Day as a public holiday.

SEC. 803. Study or encouraging government employees to serve as poll workers.

TITLE IX—TRANSMISSION OF CERTIFICATE OF ASCERTAINMENT OF ELECTORS

SEC. 901. Transmission of certificate of ascertainment of electors.

SEC. 902. Transmission of certificate of ascertainment of electors.

TITLE X—STRENGTHENING THE ELECTION ASSISTANCE COMMISSION

SEC. 1001. Strengthening the Election Assistance Commission.

SEC. 1002. Requirement of Election Assistance Commission from certain Government contracting requirements.

TITLE XI—AUTHORIZATIONS

TITLED II—PROVISIONAL BALLOTS

SEC. 201. Requirements for provisional ballots.

SEC. 202. Requirements for provisional ballots.

TITLE III—ADDITIONAL REQUIREMENTS UNDER THE HELM AMERICA VOTE ACT OF 2002

SUBTITLE A—SHORTENING VOTER WAIT TIMES

SEC. 301. Minimum required voting systems, poll workers, and election resources.

SEC. 302. Requirements for jurisdictions with substantial voter wait times.

SUBTITLE B—No-Excuse Absentee Voting

SEC. 311. No-excuse absentee voting.

SUBTITLE C—Collection and Dissemination of Election Data

SEC. 321. Data collection.

SEC. 322. Required use of voter-verified paper record.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

February 17, 2005

CONGRESSIONAL RECORD — SENATE

8, 450

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 ‘‘Count Every Vote Act of 2005’’.

(b) Table of Contents.―The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 101. Promoting accuracy, integrity, and security through preservation of a voter-verified paper record on hard copy.

Sec. 102. Requirement for mandatory recounts.

Sec. 103. Specific, delineated requirement of study, testing, and development of best practices.

Sec. 104. Voter verification and audit capacity funding.

Sec. 105. Reports and provision of security consultation services.

Sec. 106. Improvements to voting systems.

Sec. 201. Requirements for casting and counting provisional ballots.

Sec. 202. Requirements for jurisdictions with substantial voter wait times.

Sec. 301. Minimum required voting systems, poll workers, and election resources.

Sec. 302. Requirements for jurisdictions with substantial voter wait times.

Sec. 311. No-excuse absentee voting.

Sec. 321. Data collection.

Sec. 322. Required use of voter-verified paper record.

Sec. 331. Training of election officials.

Sec. 332. Improper administration of elections.

Sec. 401. Voter registration.

Sec. 402. Establishing voter identification.

Sec. 403. Requirement for Federal certification of technological security of voter registration lists.

Sec. 501. Prohibition on certain campaign activities.

Sec. 502. Establishing voter identification.

Sec. 503. Requirements for Federal certification of technological security of voter registration lists.

Sec. 601. Ending deceptive practices.

Sec. 701. Voting rights of individuals convicted of criminal offenses.

Sec. 801. Short title.

Sec. 802. Federal Election Day as a public holiday.

Sec. 803. Study or encouraging government employees to serve as poll workers.

Sec. 901. Transmission of certificate of ascertainment of electors.

Sec. 902. Transmission of certificate of ascertainment of electors.

Sec. 1001. Strengthening the Election Assistance Commission.

Sec. 1002. Requirement of Election Assistance Commission from certain Government contracting requirements.

Sec. 1003. Authorization of appropriations.

Sec. 1004. Repeal of exemption of Election Assistance Commission.

Sec. 1005. Reports and provision of security consultation services.

Sec. 1006. Improvements to voting systems.

Sec. 201. Requirements for casting and counting provisional ballots.

Sec. 202. Requirements for jurisdictions with substantial voter wait times.

Sec. 301. Minimum required voting systems, poll workers, and election resources.

Sec. 302. Requirements for jurisdictions with substantial voter wait times.

Sec. 311. No-excuse absentee voting.

Sec. 321. Data collection.

Sec. 322. Required use of voter-verified paper record.

Sec. 331. Training of election officials.

Sec. 332. Improper administration of elections.

Sec. 401. Voter registration.

Sec. 402. Establishing voter identification.

Sec. 403. Requirement for Federal certification of technological security of voter registration lists.

Sec. 501. Prohibition on certain campaign activities.

Sec. 502. Establishing voter identification.

Sec. 503. Requirements for Federal certification of technological security of voter registration lists.
in any electronic voting system shall be cer-
ified by laboratories accredited by the Com-
mision as meeting the requirements of para-
graphs (9) and (10).'

(2) SECURITY STANDARDS FOR MANUFAC-
tURERS OF VOTING SYSTEMS USED IN FEDERAL
ELECTIONS.—

(a) IN GENERAL.—No voting system may be
approved for Federal office un-
less the manufacturer of such system meets
the requirements described in subparagraph
(5).

(b) REQUIREMENTS DESCRIBED.—The re-
quirements described in this subparagraph are
as follows:

(i) The manufacturer shall conduct back-
ground checks on individuals who are pro-
grammers and developers before such indi-
viduals work on any software used in connect-
ion with the voting system.

(ii) The manufacturer shall document the
chain of custody for the handling of software
used in connection with voting systems.

(iii) The manufacturer shall ensure that
any software used in connection with the
voting system is not transferred over the
Internet.

(iv) In the same manner and to the same
extent as described in subparagraph (9), the
manufacturer shall provide the codes used in
any software used in connection with the
voting system to the Commission and may not
alter such codes without the approval of the
Independent Voting Testing Authorities.

(v) The manufacturer shall implement
procedures to ensure internal security, as re-
quired by the Director of the National Insti-
tute of Standards and Technology.

(vi) The manufacturer shall make such
other representations as may be established
by the Director of the National Institute of
Standards and Technology.

(d) EFFECTIVE DATE.—Each State and juris-
diction shall be required to comply with the
amendments made by this section on and
after November 1, 2006.

SEC. 102. REQUIREMENT FOR MANDATORY RE-
COUTS.

On and after the date of the enactment of
this Act, the Election Assistance Commis-
ion shall conduct random unannounced
manual mandatory recounts of the voter-
verified records of each election for Federal
office (and, at the option of the State or jur-
isdiction involved, of elections for State
and local office held at the same time as
such an election for Federal office) in 2 per-
cent of the polling locations (or, in the case
of an election for State office, which served
less than 1 percent, 2 percent of the precincts)
in each State and with respect to 2 percent of
the ballots cast by uniformed and overseas
voters immediately following the election
and shall promptly publish the results of
those recounts in the Federal Register. In
addition, the verification system used by the
Election Assistance Commission shall be the
error rate standards described in section
301(a)(5) of the Help America Vote Act of
2002.

SEC. 103. SPECIFIC, DELINATED REQUIREMENT
OF STUDY, TESTING, AND DEVELOP-
MENT OF BEST PRACTICES.

(a) In General.—Subtitle C of title II of the
Help America Vote Act of 2002 (42 U.S.C.
15381 et seq.) is amended by—

(1) redesignating section 247 as section 248; and

(2) by inserting after section 246 the fol-
lowing new section:

"SEC. 247. STUDY, TESTING, AND DEVELOP-
MENT OF BEST PRACTICES TO ENHANCE
ACCESSIBILITY AND VOTER-
VERIFICATION MECHANISMS FOR DIS-
ABLED VOTERS.

The Election Assistance Commission
shall study, test, and develop best practices
to enhance accessibility and voter-
verification mechanisms for indi-
viduals with disabilities."

(b) EFFECTIVE DATE.—The amendments
made by this section shall take effect on
the date of the enactment of this Act.

SEC. 104. VOTER-VERIFICATION AND AUDIT CA-
PACITY FUNDING.

(a) IN GENERAL.—Subtitle D of title II of the
Help America Vote Act of 2002 (42 U.S.C.
15321 et seq.) is amended by adding at the end
the following new part:

"PART 297—VOTER-VERIFICATION AND AUDIT CA-
PACITY FUNDING.

"SEC. 297. VOTER-VERIFICATION AND AUDIT CA-
PACITY FUNDING.

"(a) PAYMENTS TO STATES.—Subject to sub-
section (b), not later than 30 days after the date
of the enactment of the Count Every Vote Act
of 2005, the Election Assistance Commission
shall pay to each State an amount to assist the
State in pay-
ning for the implementation of the voter-
verification and audit capacity requirements of
paragraphs (2) and (3) of section 301(a), as
amended by subsections (a) and (b) of section
2 of this Act.

"(b) LIMITATION.—The amount paid to a
State under this section with respect to a voting
system purchased by a State may not exceed
the average cost of adding a printer with ac-
cessibility features to each type of voting
system purchased by the State to meet the
requirements described in such subsection.

"SEC. 298. APPROPRIATION.

"There are authorized and appropriated
$50,000,000 to the Election Assistance Com-
mision, without fiscal year limitation, to
make payments to States in accordance with
paragraph (2) of section 297(a). Furthermore, there
are authorized and appropriated $2,000,000 to the
Election Assistance Commission, for each of fiscal
years 2006 through 2010, in addition to any
amounts otherwise appropriated for ad-
ministrative costs to assist with conducting
recounts, the implementation of voter
verification systems, and improved security
measures.

"(b) EFFECTIVE DATE.—The amendment
made by this section shall take effect on the
date of the enactment of this Act.

SEC. 105. REQUIREMENT OF SECURITY CONSUL-
TATION SERVICES.

(a) IN GENERAL.—Subtitle C of title II of the
Help America Vote Act of 2002 (42 U.S.C.
15381 et seq.), as amended by section 103, is
amended by—

(1) redesignating section 248 as section 249; and

(2) by inserting after section 247 the fol-
lowing new section:

"SEC. 248. REPORTS AND PROVISION OF SEC-
URITY CONSULTATION SERVICES.

"(a) REPORT TO CONGRESS ON SECURITY RIV-
IEW.—Not later than 6 months after the date
of the enactment of the Count Every Vote Act
of 2005, the Commission, in con-
sultation with the Director of the National
Institute of Standards and Technology, shall
submit to Congress a report on a proposed
security review and certification process for all
voting systems used in elections for Fed-
eral office, including a description of the cer-
tification process to be implemented under
section 231.

"(b) REPORT TO CONGRESS ON OPERATIONAL
AND MANAGEMENT SYSTEMS.—Not later than 3 months
from the date of the enactment of the
Count Every Vote Act of 2005, the Com-
mission shall submit to Congress a report on
operational and management systems appli-
cable with respect to elections for Federal
office, including the security standards for
certifying compliance (as defined in section
301(a)(7)), that should be employed to safeguard the se-
curity of voting systems, together with a
proposed schedule for the implementation of
each such system.

"(c) PROVISION OF SECURITY CONSULTATION SERVICES.—
(a) IN GENERAL.—On and after the date of
the enactment of the Count Every Vote Act
of 2005, the Commission, in consultation with
the Director of the National Institute of
Standards and Technology, shall provide
security consultation services to States and
local jurisdictions with respect to the admin-
istration of elections for Federal office.

"(b) APPROPRIATION.—Not later than 6 months
from the date of the enactment of this Act
(a) IN GENERAL.—The amendments
made by this section shall take effect on the
date of the enactment of this Act.

SEC. 106. IMPROVEMENTS TO VOTING SYSTEMS.

(a) IN General.—Subtitle (B) of section
301(a)(1) of the Help America Vote Act of
2002 (42 U.S.C. 15481(a)(1)(B)) is amended by
striking "punch card voting system," after "any
".

(b) CLARIFICATION OF REQUIREMENTS FOR PUNCH CARD SYSTEMS.—The amendments
made by this section shall take effect on the
date of the enactment of this Act.

SEC. 107. RESIDUAL BALLOT PERFORMANCE BENCH-
MARK.—In addition to the error rate standards
described in paragraph (1), the Election
Assistance Commission shall issue and main-
tain a uniform benchmark for the residual
ballot error rate that jurisdictions may not
exceed. For purposes of the preceding sen-
tence, the residual ballot error rate shall be
based on the combination of overvotes,
spoiled or uncountable votes, and undervotes
cast in the contest at the top of the ballot,
but excluding an estimate, based upon the
best available research, of intentional under-
votes. The Commission shall base the bench-
mark issued and maintained under this sub-
paragraph on evidence of good practices in
representative jurisdictions.

(3) HISTORICALLY HIGH INTENTIONAL UNDER-
VOTES.—(A) Congress finds that there are certain
distinct communities in certain geographic areas that have historically high rates of inten-
tional undervoting in elections for Fed-
eral office, relative to the rest of the Nation.

(B) In establishing the benchmark de-
scribed in subparagraph (B), the Election
Assistance Commission shall—

(i) study and report to Congress on the oc-
currence of distinct communities in certain
garographic areas that have historically signif-
ificantly higher than average rates of
motional intentional undervoting; and

(ii) promulgate for local jurisdictions in
which that distinct community has a sub-
stantial presence either a separate bench-
mark or an exclusion from the national
benchmark, as appropriate.

TITLe II.—ProvisionAL Ballots

SEC. 201. REQUIREMENT FOR CASTING AND
COUNTING PROVISIONAL BALLOTS.

(a) ELIGIBILITY OF PROVISIONAL BALLOTS.—
(1) IN GENERAL.—Paragraph (4) of section 302(a) of the Help America Vote Act of 2002 (42 U.S.C. 15482(a)(4)) is amended by inserting at the end the following new sentence: "The determination of eligibility shall be made without regard to the location at which the voter cast the provisional ballot and without regard to any requirement to present identification to any election official."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to States and jurisdictions on and after November 1, 2006.

(b) TIMELY PROCESSING OF BALLOTS.—
(1) IN GENERAL.—Subsection (a) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(a)) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The appropriate State election official shall have the duty to follow procedures established by the Election Assistance Commission, reasonable procedures to assure the timely processing and counting of provisional ballots, including—"

"(A) standards for timely processing and counting to assure that, after the conclusion of the provisional vote count, parties and candidates may have full, timely, and effective recourse to the recount and contest procedures provided by State law; and"

"(B) follow any informed participation of candidates and parties such as are consistent with reasonable procedures to protect the security, confidentiality, and integrity of personal information collected in the course of the processing and counting of provisional ballots.".

(2) EFFECTIVE DATE.—Subsection (d) of section 302 of the Help America Vote Act of 2002 (42 U.S.C. 15482(d)) is amended by—

(A) by striking "Each State" and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), each State"; and

(B) by inserting at the end the following new paragraph:

"(2) PROCESSING.—Each State shall be required to comply with the requirements of subsection (a)(6) on and after the date that is 6 months after the date of enactment of this section and section 299, the term "voting site" shall be dispositive under the standards.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 6 months after the date of enactment of this section on and after October 1, 2006.

TITLE III—ADDITIONAL REQUIREMENTS UNDER THE HELP AMERICA VOTE ACT OF 2002

Subtitle A—Shortening Voter Wait Times

SEC. 301. MINIMUM REQUIRED VOTING SYSTEMS, POLL WORKERS, AND ELECTION RESOURCES.

(a) MINIMUM REQUIREMENTS.—
(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by adding at the end the following new subsection:

"Subtitle C—Additional Requirements

SEC. 321. MINIMUM REQUIRED VOTING SYSTEMS AND POLL WORKERS.

(a) IN GENERAL.—Each State shall provide for the minimum required number of voting systems, poll workers, and other election resources (including all other physical resources) required under section 301 on the day of any Federal election and on any days during which early voting is allowed for a Federal election.

(2) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking "and 303" and inserting "303, and subtitle C".

(b) TIMELY REMEDIAL PLANS.—For each State or jurisdiction which is required to comply with this section, the Election Assistance Commission shall establish a State remedial plan to minimize the waiting times of voters.

(2) JURISDICTION.—For purposes of this section, the term "jurisdiction" has the same meaning as the term "registrars jurisdiction" under section 8 of the National Voter Registration Act of 1993.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—No-excuse Absentee Voting

SEC. 311. NO-EXCUSE ABSENTEE VOTING.

Subtitle C of title III of the Help America Vote Act of 2002, as added by this Act, is amended by adding at the end the following new section:

"SEC. 322. NO-EXCUSE ABSENTEE VOTING.

(a) IN GENERAL.—Each State and jurisdiction shall permit any person who is otherwise qualified to vote in an election for Federal office to vote in such election in a manner other than in person without regard to any restrictions on absentee voting under State law.

(b) STATE REMEDIAL PLANS.—For each State which failed to comply with the requirements of this section, the Election Assistance Commission shall establish a State remedial plan to minimize the waiting times of military personnel and citizens living overseas.

TITLE X—REMEDIAL PLANS FOR STATES WITH EXCESSIVE VOTER WAIT TIMES

SEC. 1001. REMEDIAL PLANS FOR STATES WITH EXCESSIVE VOTER WAIT TIMES.

(a) IN GENERAL.—The Election Assistance Commission determines that a substantial number of voters waited more than 90 minutes to cast a vote in the election on November 2, 2004, shall comply with a State remedial plan established under this section.

(b) REMEDIAL PLANS.—For each State or jurisdiction which is required to comply with this section, the Election Assistance Commission shall establish a State remedial plan to minimize the waiting times of voters.

(c) JURISDICTION.—For purposes of this section, the term "jurisdiction" has the same meaning as the term "registrars jurisdiction" under section 8 of the National Voter Registration Act of 1993.

(d) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Collection and Dissemination of Election Data

SEC. 321. DATA COLLECTION.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

"SEC. 322. PUBLIC REPORTS ON FEDERAL ELECTIONS.

(a) IN GENERAL.—Not later than 8 months after the Federal election in accordance with the standards shall provide for a uniform and nondiscriminatory distribution of such systems, workers, and other resources, and shall take into account, among other factors, the following with respect to any voting site:

"(A) The voting age population.

"(B) Voter turnout in past elections.

"(C) The number of voters registered.

"(D) The number of voters who have registered since the most recent Federal election.

"(E) Census data for the population served by such voting site.

"(F) The educational levels and socio-economic factors of the population served by such voting site.

"(G) The needs and numbers of disabled voters and voters with limited English proficiency.

"(H) The type of voting systems used.

"(2) NO FACTOR DISPOSITIVE.—The standards shall provide that any distribution of such systems shall take into account the totality of all relevant factors, and no single factor shall be dispositive under the standards.

(3) PURPOSE.—To the extent possible, the standards shall provide for a uniform distribution of voting systems, poll workers, and other election resources with the goals of—

"(A) ensuring an equal waiting time for all voters in the registrar's jurisdiction;"

"(B) preventing a waiting time of over 1 hour at any polling place.

"(C) providing a waiting time of over 1 hour at any polling place.

"(D) giving reasonable public notice, to deviate from any allocation requirements in the case of unforeseen circumstances such as a natural disaster or terrorist attack.''

(2) CONFORMING AMENDMENT.—Section 202 of the Help America Vote Act of 2002 (42 U.S.C. 15322) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) carries out the duties described under subtitle E;".

SEC. 302. REQUIREMENTS FOR JURISDICTIONS WITH SUBSTANTIAL VOTER WAIT TIMES.

(a) IN GENERAL.—The Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.) is amended by adding at the end the following new title:

"TITLE X—REMEDIAL PLANS FOR STATES WITH EXCESSIVE VOTER WAIT TIMES.

SEC. 1001. REMEDIAL PLANS FOR STATES WITH EXCESSIVE VOTER WAIT TIMES.

(a) IN GENERAL.—The Election Assistance Commission determines that a substantial number of voters...
that were rejected, and the reasons for any such rejections.

“(8) The number of votes cast in early voting at the polls before the day of the election.

“(9) The number of provisional ballots cast.

“(10) The number of provisional ballots counted.

“(11) The number of provisional ballots rejected and the reasons any provisional ballots were rejected.

“(12) The number of voting sites (within the meaning of section 321(b)) in the State or jurisdiction.

“(13) The number of voting machines in each such voting site on election day and the type of each voting machine.

“(14) The total number of voting machines available in the State or jurisdiction for distribution to each such voting site.

“(15) The total number of voting machines actually distributed to such voting sites (including voting machines distributed as replacement voting machines on the day of the election).

“(16) The total number of voting machines of any type, whether electronic or manual, that malfunctioned on the day of the election and the reason for any malfunction.

“(17) The total number of voting machines that were replaced on the day of the election.

“(b) REPORT BY EAC.—The Commission shall publish, in the format required under subsection (a) and shall report to Congress not later than 9 months after any Federal election the following:

“(1) The funding and expenditures of each State under the provisions of this Act.

“(2) The voter turnout in the election.

“(3) The number of registered voters and the number of individuals eligible to register who are not registered.

“(4) The number of voters who have registered to vote in a Federal election since the most recent such election.

“(5) The extent to which voter registration information has been shared among government agencies (including any progress on implementing statewide voter registration databases under section 303(a)).

“(6) The extent to which accurate voter information is maintained over time.

“(7) The number and types of new voting systems purchased by States and jurisdictions.

“(8) The amount of time individuals waited to vote.

“(9) The number of early votes, provisional votes, absentee ballots, and overseas ballots distributed, cast, and counted.

“(10) The number of early votes, provisional ballots, and overseas ballots to vote.

“(11) The number of on-site, telephone, and internet early vote locations.

“(12) The number of balloting locations and precincts.

“(13) The ratio of the number of voting machines to the number of registered voters.

“(14) The extent to which information pertaining to electoral participation as the Commission deems appropriate.

“(c) Each State and jurisdiction shall be required to comply with the requirements of this section on and after November 1, 2006.”

Subtitle D—Ensuring Well Run Elections

SEC. 331. TRAINING OF ELECTION OFFICIALS.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“(a) IN GENERAL.—Each State and jurisdiction shall require that each person who works in a polling place during an election for Federal office and who is not required to comply with the requirements of this Act, is adequately trained not earlier than 3 months before the election.

“(b) TRAINING.—The training required under subsection (a) shall, at a minimum, include—

“(1) hands-on training on all voting systems used by the election jurisdiction;

“(2) training on accommodating individuals with disabilities, individuals who are of limited English proficiency, and individuals who are illiterate;

“(3) training on requirements for the identification of voters;

“(4) training on the appropriate use of provisional ballots and the process for casting such ballots;

“(5) training on registering voters on the day of the election;

“(6) training on which individuals have the authority to challenge voter eligibility and the process for any such challenges; and

“(7) training on security procedures.

“(c) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of this section on and after August 1, 2006.”

SEC. 332. IMPARTIAL ADMINISTRATION OF ELECTIONS.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“(a) IN GENERAL.—Each State shall be required to publish all State laws, regulations, procedures, and practices relating to Federal elections on January 1 of each year in which there is a regularly scheduled election for a Federal office.

“(b) MAINTENANCE OF LAWS ON THE INTERNET.—Each State shall be required to maintain an updated version of all material published under paragraph (1) on an easily accessible public website.”

Subtitle E—Election Day Registration and Early Voting

SEC. 351. ELECTION DAY REGISTRATION.

(a) REQUIREMENT.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“(a) IN GENERAL.—Notwithstanding section 8(a)(1)(D) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6), each State shall permit any individual on the day of any Federal election to register and vote if the State or jurisdiction provides adequate public notice of:

“(1) REGISTRATION.—Notwithstanding section 303 since the later of the most recent previous public notice under section 303 unless such notice is first provided with a notice which meets the requirements of paragraph (2).

“(2) REQUIREMENTS OF NOTICE.—The notice required by paragraph (1) shall be—

“(A) provided to each voter in a uniform and nondiscriminatory manner;

“(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.);

“(C) in the form and manner prescribed by the Election Assistance Commission.

“(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after September 1, 2006.”

Subtitle F—Election Day Registration and Early Voting

SEC. 352. EARLY VOTING.

(a) REQUIREMENTS.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 326. REMOVAL FROM VOTER REGISTRATION LIST.

“(a) Public Notice.—Not later than 45 days before any Federal election, each State shall provide public notice of—

“(1) all names which have been removed from the voter registration list under section 303 since the later of the most recent election for Federal office or the day of the most recent previous public notice provided under this subsection.

“(2) the criteria, processes, and procedures used to determine which names were removed.

“(b) NOTICE TO INDIVIDUAL VOTERS.—

“(1) IN GENERAL.—No individual shall be removed from the voter registration list under section 303 unless such individual is first provided with a notice which meets the requirements of paragraph (2).

“(2) REQUIREMENTS OF NOTICE.—The notice required by paragraph (1) shall be—

“(A) provided to each voter in a uniform and nondiscriminatory manner;

“(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

“(C) in the form and manner prescribed by the Election Assistance Commission.

“(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after September 1, 2006.”

Subtitle F—Election Day Registration and Early Voting

SEC. 341. STANDARDS FOR PURGING VOTERS.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 335. STANDARDS FOR PURGING VOTERS.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 327. ELECTION DAY REGISTRATION.

“(a) IN GENERAL.—

“(1) REGISTRATION.—Notwithstanding section 8(a)(1)(D) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6), each State shall permit any individual on the day of the election to register and vote if the State or jurisdiction provides adequate public notice of:

“(1) REGISTRATION.—Notwithstanding section 303 since the later of the most recent previous public notice under section 303 unless such notice is first provided with a notice which meets the requirements of paragraph (2).

“(2) REQUIREMENTS OF NOTICE.—The notice required by paragraph (1) shall be—

“(A) provided to each voter in a uniform and nondiscriminatory manner;

“(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

“(C) in the form and manner prescribed by the Election Assistance Commission.

“(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after September 1, 2006.”

Subtitle F—Election Day Registration and Early Voting

SEC. 352. EARLY VOTING.

(a) REQUIREMENTS.—Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:

“SEC. 326. REMOVAL FROM VOTER REGISTRATION LIST.

“(a) Public Notice.—Not later than 45 days before any Federal election, each State shall provide public notice of—

“(1) all names which have been removed from the voter registration list under section 303 since the later of the most recent election for Federal office or the day of the most recent previous public notice provided under this subsection.

“(2) the criteria, processes, and procedures used to determine which names were removed.

“(b) NOTICE TO INDIVIDUAL VOTERS.—

“(1) IN GENERAL.—No individual shall be removed from the voter registration list under section 303 unless such individual is first provided with a notice which meets the requirements of paragraph (2).

“(2) REQUIREMENTS OF NOTICE.—The notice required by paragraph (1) shall be—

“(A) provided to each voter in a uniform and nondiscriminatory manner;

“(B) consistent with the requirements of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.); and

“(C) in the form and manner prescribed by the Election Assistance Commission.

“(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after September 1, 2006.”

Subtitle F—Election Day Registration and Early Voting

SEC. 341. STANDARDS FOR PURGING VOTERS.

Subtitle C of title III of the Help America Vote Act of 2002, as added and amended by this Act, is amended by adding at the end the following new section:
"SEC. 328. EARLY VOTING.

(a) IN GENERAL.—Each State shall allow individuals to vote in an election for Federal office not less than 15 days prior to the day scheduled for the election in the same manner as voting is allowed on such day.

(b) MINIMUM EARLY VOTING REQUIREMENTS.—Each polling place which allows voting prior to the day of a Federal election pursuant to subsection (a) shall—

(1) allow such voting for no less than 4 hours on each day (other than Sunday); and

(2) permit uniform hours each day for which such voting occurs.

(c) APPLICATION OF ELECTION DAY REGISTRATION TO EARLY VOTING.—A State shall permit individuals to register to vote at each polling place which allows voting prior to the day of a Federal election pursuant to subsection (a) in the same manner as the State is required to permit individuals to register to vote on the day of the election under section 327.

(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after October 1, 2006.

"SEC. 329B. STANDARDS FOR EARLY VOTING.

(a) IN GENERAL.—The Commission shall issue standards for the administration of voting prior to the day scheduled for a Federal election. Such standards shall include the nondiscriminatory geographic placement of polling places at which such voting occurs and the public listing of the date, time, and location of such polling places no earlier than 10 days before the date on which such voting begins.

(b) DIVERSITY.—The standards described in subsection (a) shall permit States, upon giving reasonable public notice, to deviate from any requirement in the case of unforeseen circumstances such as a natural disaster or a terrorist attack.

TITLE IV—VOTER REGISTRATION AND IDENTIFICATION

SEC. 401. VOTER REGISTRATION.

(a) IN GENERAL.—Paragraph (4) of section 303(b)(2) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)), as added and amended by this Act, is amended by adding at the end the following new subparagraph:

"(4) accept any application which is so received before an election which is held on or after November 1, 2006, for voting in said election, as required under this subsection.

(b) STANDARDS FOR EARLY VOTING.—Subsection C of title II of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)), as added and amended by this Act, is amended by adding at the end the following new subsection:

"(ii) the failure to provide information concerning the registration of such application, other than the attestation required under section 303(b)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7).

(c) INTERNET REGISTRATION.—

(1) IN GENERAL.—Subtitle C of title II of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)), as added and amended by this Act, is amended by striking "and" after section 248 as section 250 and by inserting after section 248 the following new section:

"SEC. 249. STANDARDS FOR INTERNET REGISTRATION AND OTHER USES OF THE INTERNET IN FEDERAL ELECTIONS.

(a) STUDY.—The Commission shall conduct a study on—

(1) the feasibility of voter registration through the Internet for Federal elections; and

(2) other uses of the Internet in Federal elections, including—

(A) the use of the Internet to publicize information related to Federal elections; and

(B) the use of the Internet to vote in Federal elections.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report on the results of the study conducted under subsection (a).

(c) ALLOCATION OF FUNDS.—

(B) an amount equal to—

(i) the voting age population of the State (as reported in the most recent decennial census) divided by

(ii) the total voting age of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

"SEC. 403. REQUIREMENT FOR FEDERAL CERTIFICATION OF TECHNOLOGICAL SECURITY OF VOTER REGISTRATION LISTS.

(a) IN GENERAL.—Section 303(a)(3) of the Help America Vote Act of 2002 (42 U.S.C. 15483(a)(3)) is amended by striking "measures, as certified by the Election Assistance Commission, to prevent", and inserting "measures, as certified by the Election Assistance Commission, to prevent".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

"SEC. 405. RECOGNIZING VOTER IDENTIFICATION.

(a) IN GENERAL.—

(1) IN PERSON VOTING.—Clause (i) of section 303(b)(2)(A)(ii) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by striking "or" at the end of clause (I) and by adding at the end the following new clause:

(III) a written affidavit, executed by such individual, attesting to such individual's identity;

(b) VOTING BY MAIL.—Clause (ii) of section 303(b)(2)(A)(ii) of the Help America Vote Act of 2002 (42 U.S.C. 15483(b)(2)(A)(ii)) is amended by striking "or" at the end of clause (I) and by striking the period at the end of clause (II) and inserting "; or", and by adding at the end the following new clause:

(III) a written affidavit, executed by such individual, attesting to such individual's identity;

(c) PRESUMPTION TO REGISTER.—There shall be a presumption that persons who submit voter registration applications should be registered.

(d) PRESUMPTION TO CURE MATERIAL OMISSION.—Each State and jurisdiction shall—

(1) be permitted to presume an opportunity to cure any material omission within a reasonable period of time; and

(2) accept any application which is so cured as having been filed on the date on which such application is originally received.

(e) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of this subsection on and after November 1, 2006.

"SEC. 501. PROHIBITION ON CERTAIN CAMPAIGN ACTIVITIES.

(b) CAMPAIGN ACTIVITIES BY ELECTION OFFICIALS

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 319 the following new section:

"SEC. 319A. CAMPAIGN ACTIVITIES BY ELECTION OFFICIALS AND VOTING SYSTEM MANUFACTURERS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking "measures, as certified by the Election Assistance Commission", and inserting "measures, as certified by the Election Assistance Commission, to prevent".

(b) CHIEF STATE ELECTION OFFICIALS.—It shall be unlawful for any chief State election
official to take part in prohibited political activities with respect to any election for Federal office over which such official has managerial authority."

"(2) Prohibited political activities.—The term ‘prohibited political activities’ means campaigning to support or oppose a candidate, districts for candidates for Federal office, making public speeches in support of such a candidate, distributing campaign materials, or with respect to such a candidate, organizing campaign events with respect to such a candidate, and serving in any position on any political campaign committee of such a candidate."

"(b) Ownership.—For purposes of subsection (a), a person shall be considered to own an entity if such person controls at least 5% of the voting interests of the entity."

"(b) Ownership.—For purposes of subsection (a), a person shall be considered to own an entity if such person controls at least 5% of the voting interests of the entity."

"(a) SHORT TITLE.—This title may be cited as the Civic Participation Act of 2005."

"(b) FINDINGS.—Congress makes the following findings:

(A) The right to vote is the most basic constitutional right. The Constitution guarantees the right to vote in any election for Federal office for which a person is a United States citizen. The Constitution has repeatedly been upheld by the Supreme Court that power over Federal elections, an authority that has repeatedly been upheld by the Supreme Court.

(B) Congress has ultimate supervisory power over Federal elections, an authority that has repeatedly been upheld by the Supreme Court.

(C) Although State laws determine the qualifications for voting in Federal elections, Congress must ensure that those laws are in accordance with the Constitution. Currently, those laws vary throughout the Nation, resulting in discrepancies regarding which citizens may vote in Federal elections.

(D) An estimated 4,700,000 individuals in the United States, or 1 in 44 adults, currently cannot vote as a result of a felony conviction. Women represent about 676,000 of those 4,700,000.

(E) State disenfranchisement laws disproportionately impact ethnic minorities. Fourteen States disenfranchise some or all ex-offenders who have fully served their sentences, regardless of the nature or seriousness of the offense.

(F) In those States that disenfranchise ex-offenders who have fully served their sentences, the right to vote can be regained in theory, but in practice this possibility is often illusory.

(G) In those States that disenfranchise ex-offenders, an ex-offender’s right to vote can only be restored through a gubernatorial pardon or, if a certificate granted by a parole board, the offended offender must wait periods as long as 10 years after completion of the sentence before an ex-offender can initiate the application for restoration of the right to vote.

(H) In those States that disenfranchise ex-offenders, an ex-offender’s right to vote can only be restored through a gubernatorial pardon or, if a certificate granted by a parole board, the offended offender must wait periods as long as 10 years after completion of the sentence before an ex-offender can initiate the application for restoration of the right to vote.

(I) Offenders convicted of a Federal offense often have additional barriers to regaining voting rights. Many States do not offer a restoration measure for Federal offenders who have completed supervision. The only methods available to such persons is a Presidential pardon.

(J) Few persons who seek to have their right to vote restored have the financial and political resources needed to succeed.

(K) Thirteen percent of the African-American adult male population, or 1,400,000 African-American men, are disenfranchised. Given current rates of incarceration, 3 in 10 African-American men in the next generation will be disenfranchised at some point during their lifetimes. Hispanic citizens are also disproportionately disenfranchised, since Hispanic citizens are disproportionately represented in the criminal justice system.

(L) The discrepancies described in this paragraph should be addressed by Congress, ensuring the realization of fundamental fairness and equal protection.

(2) PURPOSE.—The purpose of this title is to restore fairness in the Federal election process by ensuring that ex-offenders who have fully served their sentences are not denied the right to vote.

(c) DEFINITIONS.—In this title:

1. Constitution or facility.—The term ‘constitutional or facility’ means any prison, penitentiary, jail, or other institution or facility for the confinement of individuals convicted of criminal offenses, whether publicly or privately operated, except that such term does not include any residential community treatment center (or similar public or private facility).

2. Election.—The term ‘election’ means

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party held to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; or

(D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President.

3. Federal office.—The term ‘Federal office’ means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, Congress.

4. Pardon.—The term ‘pardon’ means a presidential pardon, imposed by a Federal, State, or local court, with or without a condition on the individual involved concerning

(A) the individual’s freedom of movement;

(B) the payment of damages by the individual;

(C) periodic reporting by the individual to an officer of the court; or

(D) supervision of the individual by an officer of the court.

5. Rights of Citizens.—The right of an individual who is a citizen of the United States to vote in any election for Federal office shall not be denied or abridged because that individual has been convicted of a criminal offense unless, at the time of the election, such individual—

(A) has repeatedly been upheld by the Supreme Court.

(B) has repeatedly been upheld by the Supreme Court.

(C) has repeatedly been upheld by the Supreme Court.

(D) has repeatedly been upheld by the Supreme Court.

(e) ENFORCEMENT.—

(1) ATTORNEY GENERAL.—The Attorney General may bring a civil action in a court of competent jurisdiction to obtain such declaratory or injunctive relief as is necessary to remedy a violation of this section.

(2) PRIVATE RIGHT OF ACTION.—

(A) NOTICE.—A person who is aggrieved by a violation of this section may provide written notice of the violation to the chief election official of the State involved.

(B) ACTION.—Except as provided in subparagraph (A), if the notice is not corrected within 90 days after receipt of a notice provided under subparagraph (A), or within
20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in such a court or in any other court of competent jurisdiction for declaratory or injunctive relief with respect to the violation.

(C) ACTION FOR VIOLATION SHALT OCCUR BEFORE A FEDERAL ELECTION.—If the violation occurred before the date of an election for Federal office, the aggrieved person shall not be required to provide notice to the chief election official of the State under subparagraph (A) before bringing a civil action in such a court to obtain declaratory or injunctive relief with respect to the violation.

(3) RELATION TO OTHER LAWS.—(1) NO PROHIBITION ON LESS RESTRICTIVE LAWS.—Nothing in this section shall be construed to prohibit a State from enacting any State law that allows the right to vote in any election for Federal office on terms less restrictive than those terms established by this section.

(2) NO LIMITATION ON OTHER LAWS.—The rights and remedies established by this section shall be in addition to all other rights and remedies provided by law, and shall not supersede or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.) or the National Voter Registration Act of 1995 (42 U.S.C. 1973g et seq.) or any other law or any provision of this Act, and shall not impact the time frame within which such individual is released from a correctional institution or facility.

(3) DEFINITIONS.—Any term which is used in this section and is not defined in section 208 of this Act, shall have the meaning given to such term in that Act.

(4) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after the date of the enactment of the Help America Vote Act of 2005.

SEC. 803. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle C of title II of the Help America Vote Act of 2002 (42 U.S.C. 15317 et seq.), as added and amended by this Act, is amended by redesignating section 250 as section 250A and by inserting after section 249 the following new section:

"SEC. 250A. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) STUDY.—The Commission shall conduct a study to encourage State and local government employees to serve as poll workers in Federal elections.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report on the results of the study conducted under subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 201 for fiscal year 2006, $100,000 shall be authorized solely to carry out the purposes of this section.

SEC. 804. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle E of title II of the Help America Vote Act of 2002 (42 U.S.C. 15330), as added and amended by this Act, is amended by striking paragraph (5) and inserting the following as a new paragraph:

"(5) FEDERAL ELECTION DAY AS A PUBLIC HOLIDAY.—At the request of the Commission, the Director of the National Institute of Standards and Technology shall observe Federal Election Day as a public holiday for Federal employees.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 805. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle F of title II of the Help America Vote Act of 2002 (42 U.S.C. 15335), as added and amended by this Act, is amended by redesignating paragraphs (11) through (19) as paragraphs (10) and by redesignating subparagraphs (B) and (C) thereof as subparagraphs (A) and (B), respectively.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 806. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle H of title II of the Help America Vote Act of 2002 (42 U.S.C. 15350), as added and amended by this Act, is amended by redesignating paragraphs (1) through (19) as paragraphs (10) and (19) respectively.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 807. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle I of title II of the Help America Vote Act of 2002 (42 U.S.C. 15355), as added and amended by this Act, is amended by redesignating paragraphs (1) through (19) as paragraphs (10) and (19) respectively.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 808. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle J of title II of the Help America Vote Act of 2002 (42 U.S.C. 15360), as added and amended by this Act, is amended by redesignating paragraphs (1) through (19) as paragraphs (10) and (19) respectively.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 809. STUDY ON ENCOURAGING GOVERNMENT EMPLOYEES TO SERVE AS POLL WORKERS.

(a) IN GENERAL.—Subtitle K of title II of the Help America Vote Act of 2002 (42 U.S.C. 15365), as added and amended by this Act, is amended by redesignating paragraphs (1) through (19) as paragraphs (10) and (19) respectively.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 901. TRANSMISSION OF CERTIFICATE OF ASCERTAINMENT OF ELECTORS

(a) IN GENERAL.—Section 6 of title 3, United States Code, is amended—

(1) by inserting "the date which is 60 days after the day on which each such individual is released from a correctional institution or facility for serving a felony sentence or the date on which such individual is released from parole for a felony offense" after "date of the enactment of this Act";

(b) DATE OF NOTIFICATION.—The notification required under subsection (a) shall be given not later than 60 days before the date on which such individual is released from a correctional institution or facility for serving a felony sentence or the date on which such individual is released from parole for a felony offense.

(c) DEFINITIONS.—Any term which is used in this section and is not defined in the Civic Participation Act of 2005, shall have the meaning given to such term in that Act.

(d) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of this section on and after the date of the enactment of the Help America Vote Act of 2005.

SEC. 902. STRENGTHENING THE ELECTION ASSISTANCE COMMISSION

(a) RULEMAKING AUTHORITY.—Part 1 of sub-

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 1001. STRENGTHENING THE ELECTION ASSISTANCE COMMISSION

(a) RULEMAKING AUTHORITY.—Part 1 of sub-

(d) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 1002. REPEAL OF REPEAL OF ELECTION ASSISTANCE COMMISSION FROM CERTAIN GOVERNMENT CONTRACTING REQUIREMENTS

(a) IN GENERAL.—Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325), as amended by striking paragraph (e), is amended by redesignating subparagraph (A) as subparagraph (E), redesignating subparagraph (B) as subparagraph (A), redesignating subparagraph (C) as subparagraph (F), redesignating subparagraph (D) as subparagraph (B), and inserting the following as a new subparagraph (E):

"(E) ELECTION ASSISTANCE COMMISSION.—At the request of the Commission, the Director of the National Institute of Standards and Technology shall provide the Commission with technical support necessary for the Commission to carry out its duties under this title.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—Section 210 of the Help America Vote Act of 2002 (42 U.S.C. 15335), as amended by striking paragraphs (1) through (9) and inserting the following as a new paragraph:

"(1) APPROPRIATIONS FOR THE ELECTION ASSISTANCE COMMISSION.—The amount authorized to be appropriated under section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325), is amended by inserting after paragraph (d) the following paragraph:

"(e) FEDERAL ELECTION DAY AS A PUBLIC HOLIDAY.—At the request of the Commission, the Director of the National Institute of Standards and Technology shall observe Federal Election Day as a public holiday for Federal employees.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 1004. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15326), as amended by striking paragraph (e), is amended by redesignating subparagraph (A) as subparagraph (E), redesignating subparagraph (B) as subparagraph (A), redesignating subparagraph (C) as subparagraph (F), redesignating subparagraph (D) as subparagraph (B), and inserting the following as a new subparagraph (E):

"(E) ELECTION ASSISTANCE COMMISSION.—At the request of the Commission, the Director of the National Institute of Standards and Technology shall provide the Commission with technical support necessary for the Commission to carry out its duties under this title.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.

SEC. 1005. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL.—Section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15330), as amended by striking paragraphs (1) through (9) and inserting the following as a new paragraph:

"(1) APPROPRIATIONS FOR THE ELECTION ASSISTANCE COMMISSION.—The amount authorized to be appropriated under section 205 of the Help America Vote Act of 2002 (42 U.S.C. 15325), is amended by inserting after paragraph (d) the following paragraph:

"(e) FEDERAL ELECTION DAY AS A PUBLIC HOLIDAY.—At the request of the Commission, the Director of the National Institute of Standards and Technology shall observe Federal Election Day as a public holiday for Federal employees.

(b) EFFECTIVE DATE.—Such amendment made by this Act shall take effect on the date of the enactment of this Act.
polling places, out of frustration, without having voted. In Cleveland, thousands of provisional ballots were disqualified after poll workers gave faulty instructions to voters. Because of these irregularities—as well as voting irregularities in many other parts of the country—the Congress of the United States—led by Congresswoman STEPHANIE TURMS JONES of Ohio in objecting to the certification of the Ohio electoral votes on January 7, 2005. I did this to cast the light of truth on a flawed system that must be fixed now. Americans deserve a system where every vote is counted and can be verified. And, Congress must do more to give confidence to all of us that their votes matter.

In 2002, Congress passed the Help America Vote Act (HAVA), which took important steps toward electoral reform. Since the enactment of HAVA, however, concerns have been raised about the security of voting machines and the inability of the majority of voters to use these machines to be able to adequately verify their vote and to ensure that the vote they intended was both cast and counted. In addition, many other problems in our Federal election system—including long wait times in which to vote, the erroneous purging of voters, voter suppression and intimidation, and unequal access to the voting process—remain.

Last year, I sponsored legislation to address some of these issues. I also joined Senators CLINTON and NAMNI on Senator Barbara Boxer's bill introducing an election reform bill. I am pleased to report that the civil penalties for class B dealers, as well as the unnecessary inhuman treatment that some of the companion animals brought to the facility were stolen, and that the business maintained a list of over 50 “bunchers,” individuals who obtained animals to sell them to “random source” animal dealers. Bunchers have a variety of methods of obtaining companion animals, including responding to newspaper ads offering free animals, tresspassing on private property to abduct the animals from yards, and house burglaries.

I am pleased to report that the civil trial against this class B dealer was settled on January 28, 2005. Under the agreement, the dealer and others associated with the business had their licenses permanently revoked. In addition, fines up to $262,700 were imposed by the USDA, which included a personal civil penalty of $12,700. The dealer also is prohibited from engaging in any activities under which the licenses were revoked for 3 years. While this case resulted in a landmark settlement, I would like to remind my colleagues that if it were not for an outside organization that filed a complaint with the USDA, this class B dealer could still be in operation today.

The Pet Safety and Protection Act of 2005 strengthens the AWA by prohibiting the use of class B dealers as suppliers of dogs and cats to research laboratories. Contrary to what others might say, my legislation will not be a burden on research facilities because the American people deserve a system where their votes matter.

I am not here to argue whether animals should or should not be used in research. Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against cancer, Alzheimer's, tuberculosis, AIDS, and a host of other life-threatening diseases. Animal research has been, and continues to be, fundamental to advancements in medicine. However, I am concerned with the sale of stolen pets and stray animals to research facilities and the poor treatment of these animals by some class B dealers.

My legislation preserves the integrity of animal research by encouraging research laboratories to obtain animals from legitimate sources that comply with the AWA. Legitimate sources for animals include USDA-licensed class A dealers, breeders, and research facilities, municipal pounds and shelters, and legitimate pet owners who want to donate their animals to research. These sources are capable of meeting the demand for research animals. The National Institutes of Health, in an effort to curb abuse and deception, have already adopted policies against the acquisition of dogs and cats from class B dealers.

The Pet Safety and Protection Act of 2005 also reduces the USDA's regulatory burden by allowing the Department to use its resources more efficiently and effectively. Each year, thousands of dollars are spent on regulation of dealers. To comply with future violations of the AWA, my bill increases the penalties to a minimum of $1,000 per violation.

I reiterate that this bill in no way impairs or impedes research but will end the fraudulent practices of some class B dealers, as well as the unnecessary suffering of these animals in their care. I urge my colleagues to support this important legislation.

By Mr. CORZINE:

S. 451. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to reintroduce the Pet Safety and Protection Act of 2005. My legislation amends the Animal Welfare Act to ensure that all companion animals such as dogs and cats used by research facilities are obtained legally.

Over 30 years ago, Congress passed the Animal Welfare Act, AWA, author-
National Oceanic and Atmospheric Administration, NOAA, to establish and administer a Global Tsunami Disaster Reduction Program, based on the successful program which NOAA operates in the Pacific Ocean.

I traveled to South and Southeast Asia in the wake of last year’s Indian Ocean tsunami that led to the death of more than 160,000 people and a widespread humanitarian crisis. What I witnessed in Thailand and Sri Lanka was the most incredible destruction I have ever seen. I can only imagine that the devastation from the tsunami rivals Hiroshima and Nagasaki in the level of sheer destruction, damage, displacement and loss of life.

Around the world, and right here in the United States, highly populated coastal areas are vulnerable to potential devastation on the scale of the Indian Ocean tsunami. As we continue to assist our South Asian friends in their reconstruction effort, we must also do everything in our ability to reduce human, ecological and economic damage in the event of another tsunami. We cannot allow such a natural disaster to separate families, orphan children and destroy livelihoods once again.

There is no magic solution. Coastal areas, by nature, will face significant damage if a tsunami strikes. However, an advance warning would go a long way to reduce the loss of life in particular. Had governments in South Asia been able to inform their citizens of the approaching tsunami, tourists would not have been tanning on the beach and coastal markets would not have been obliviously going about their everyday business. While they would not have been perfect, rudimentary coastal evacuations could have taken place on the South Asian coast. Had they known the awful human cost that I witnessed this January. We currently operate an effective warning system in the Pacific Ocean, which warns our citizens and coastal governments of potential tsunami threats faced in Hawaii, Alaska and West Coast states. This system utilizes a sophisticated network of buoys in the Pacific Ocean that monitor rising and falling water levels. Using this data, and seismic observation of the ocean floor, NOAA is able to adequately assess the threat posed to coastal residents by natural activity in the Pacific and inform emergency service agencies in regions that face imminent threats. The Tsunami Early Warning and Relief Act would expand NOAA’s successful Pacific tsunami monitoring and communications program to the Atlantic Ocean, Caribbean Sea, Indian Ocean, and other areas around the world that are vulnerable to tsunamis. Furthermore, this legislation expands NOAA’s Tsunami Ready Program, which disseminates tsunami communications to coastal communities and coordinates evacuation strategies for these regions.

In conclusion, expansion of tsunami warning and readiness programs are critical to the lives and livelihoods of coastal residents in the United States and around the world. For all of us, the devastating aftermath of the Indian Ocean tsunami is a call to action that we must improve our reflexes when it comes to tsunamis. I urge my colleagues to support enactment, and other tsunami warning systems proposed by my colleagues, and to move forward as quickly as possible so that we never again have to see the devastation, death, broken families and orphaned children that we see right now in South Asia.

I ask unanimous consent that the text of the Tsunami Early Warning and Relief Act be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 432

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 “Tsunami Early Warning and Relief Act of 2005”.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) A tremendous underssea earthquake near Sumatra sparked a tsunami whose devastation spread throughout South Asia, Southeast Asia, and East Africa, leading to the death of more than 160,000 people on December 26, 2004. As of February 4, 2005, more than 140,000 people are still missing. The tsunami-affected countries include Indonesia, Sri Lanka, India, Thailand, Maldives, Seychelles, Bangladesh, Brunei, Malaysia, Somalia, Kenya, and Tanzania.

(2) The tsunami resulted in massive destruction affecting millions of people who now require a great amount of short-term survival assistance and long-term rehabilitation and reconstruction assistance.

(3) Compared to past disasters, the Indian Ocean earthquake and tsunami led to historic destruction of the social service infrastructure, businesses, and livelihoods. The devastation caused by the tsunami has resulted in many separated families and countless unaccompanied and orphaned children.

(4) An effective global tsunami warning system can help prevent future humanitarian disasters and for protecting national security, since tsunamis occurring anywhere around the globe could impact the United States at home and United States national interests abroad.

(5) The National Oceanic and Atmospheric Administration has already built a system of tsunami buoys in the Pacific Ocean which has been proven to provide critical information and enhance the Nation’s response to tsunamis. The National Oceanic and Atmospheric Administration has the technical capability to upgrade and expand this system so that it covers the entire globe and is integrated into larger ocean observing efforts.

(6) Consistent funding and international cooperation would be needed to deploy a broader global tsunami warning system.

(7) Effective local emergency management capabilities are necessary to relay tsunami warning information to coastal communities and their residents.

TITLE I—TSUNAMI WARNING SYSTEMS

SEC. 101. GLOBAL PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Commerce shall establish a Global Tsunami Disaster Reduction Program within the National Oceanic and Atmospheric Administration for the establishment of a tsunami warning system to protect vulnerable areas around the world, including Atlantic Ocean, Caribbean Sea, Gulf of Mexico, Indian Ocean, Mediterranean Sea, and European coastlines.

(b) INTERNATIONAL COOPERATION.—The Secretary of State, in consultation with the Director of the National Oceanic and Atmospheric Administration, shall work with foreign countries that would benefit from the warning system described in subsection (a), and through international organizations, for the purposes of—

(1) sharing costs;

(2) sharing relevant data;

(3) sharing technical advice for the implementation of dissemination and evacuation plans; and

(4) ensuring that the Global Earth Observation System of Systems program has access to and shares openly all relevant information worldwide.

SEC. 102. EXPANSION OF UNITED STATES TSUNAMI READY PROGRAM.

The Director of the National Oceanic and Atmospheric Administration shall work with coastal communities throughout the United States to build upon local coastal and ocean observing capabilities, improve abilities to disseminate tsunami information and prepare evacuation plans according to the requirements of the Tsunami Ready program of the National Oceanic and Atmospheric Administration, and encourage more communities to participate in the program.

SEC. 103. SEISMIC ACTIVITY MONITORING.

The Director of the National Oceanic and Atmospheric Administration shall coordinate with the United States Geological Survey and the Department of State to work with other countries to enhance tsunami monitoring, through the Global Seismic Network (GSN), of seismic activities that could lead to tsunamis, to support the programs described in section 102.

SEC. 104. ANNUAL REPORT.

The Director of the National Oceanic and Atmospheric Administration shall transmit an annual report to Congress on progress in carrying out this title.

SEC. 105. DEFINITION.

For purposes of this title, the term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are appropriated to be appropriated to the Secretary of Commerce for carrying out this title:

(1) $38,000,000 for fiscal year 2006; and

(2) $32,000,000 for fiscal year 2007 and for each of the 5 years thereafter.

TITLE II—RELIEF, REHABILITATION, AND RECONSTRUCTION ASSISTANCE RELATING TO INDIAN OCEAN TSUNAMI

SEC. 201. ASSISTANCE.

(a) AUTHORIZATION.—The President, acting through the Administrator of the United States Agency for International Development, is authorized to provide assistance for—

(1) the relief and rehabilitation of individuals who are victims of the Indian Ocean tsunami; and

(2) the reconstruction of the infrastructure of countries affected by the Indian Ocean tsunami, including Indonesia, Sri Lanka, India, Thailand, Maldives, Seychelles, Bangladesh, Burma, Malaysia, Somalia, Kenya, and Tanzania.

(b) TERMS AND CONDITIONS.—Assistance under this section may be provided on such
By Mr. SMITH (for himself, Mr. KOHL, Mr. LUGAR, Mrs. CLINTON, Mr. BROWNBACK, Mr. LAUTENBERG, and Mr. FEINGOLD):

S. 453. A bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to extend eligibility for supplemental security income through fiscal year 2008 for refugees, asylees, and certain other humanitarian immigrants; to the Committee on Finance.

Mr. SMITH. Mr. President, I am pleased to be joined today by my colleagues, Senators KOHL, LUGAR, LIEBERMAN, BROWNBACK, CLINTON, LAUTENBERG, and FEINGOLD, to introduce this important piece of legislation. Legislation will ensure the United States government does not turn its back on political asylees or refugees who are the most vulnerable citizens seeking safety in this great country of ours.

As many of you may know, Congress as part of Personal Responsibility and Work Opportunity Reconciliation Act, PRWORA, modified the SSI program to include a seven-year time limit on the receipt of benefits for refugees and asylees. This policy was intended to balance the need to have people emigrate to the United States to become citizens, with an understanding that the naturalization process also takes time to complete. To allow adequate time for asylees and refugees to become naturalized citizens Congress provided the 7-year time limit before the expiration of SSI benefits.

Unfortunately, the naturalization process often takes longer than 7 years because applicants are required to live in the United States for a minimum of 5 years prior to applying for citizenship and the INS often takes 3 or more years to process the application. Because of this time delay, many individuals are trapped in the system faced with the loss of their SSI benefits. If Congress does not act to change the law, reports show that over the next 4 years nearly 30,000 elderly and disabled refugees and asylees will lose their Supplemental Security Income, SSI, benefits because their 7-year time limit will expire before they become citizens. Many of these individuals are elderly who fled persecution or torture in their home countries. They include Jews fleeing religious persecution in the former Soviet Union, Iraqi Kurds fleeing the Saddam Hussein regime, Cubans and Hmong people from the highlands of Laos who served on the side of the United States military during the Vietnam War. They are elderly and disabled and thus are already highly reliant on their SSI benefits as their primary income. To penalize them because of delays encountered through the bureaucratic process seems unjust and inappropriate.

The administration in its fiscal year 2006 budget acknowledged the necessity to correct this problem by dedicating funding to extend eligibility for SSI beyond the 7-year limit. While I am pleased that they have taken the first step in correcting this problem, I am concerned the policy does not go far enough. Data shows that most people will need at least an additional 2 years to navigate and complete the naturalization process. Therefore, my bipartisan colleagues have introduced this bill, which will provide a 2-year extension. We believe this will provide the time necessary to complete the process.

I hope my colleagues will join me in support of this bill, and I look forward to working with Chairman GRASSLEY and other members of the Finance Committee to secure these changes during consideration of TANF reauthorization.

Mr. President, I rise today to join Senator SMITH and a bipartisan group of Senators in introducing the SSI Extension for Elderly and Disabled Refugees Act. This bill builds both on a proposal in the President’s budget, and on legislation we introduced last year, to serve the neediest individuals in our society. Wisconsin is the home for hundreds of thousands of Hmong family members who were resettled there in the years after the Vietnam War, some as recently as 2001. Yet these Hmong fought with the CIA in Laos during the Vietnam War, providing critical assistance to U.S. forces. After the fall of Saigon, thousands of Hmong fled Laos and its communist Pathet Lao government. The United States remains indebted to these courageous individuals and their families.

In addition to the Hmong, America has served as a shelter for Jews and Baptists fleeing religious persecution in their home countries, for Iraqis and Cubans escaping tyrannical dictatorships. Our policy toward refugees and asylees embodies the best of our country—compassion, opportunity, and freedom. I am proud of the example our policies set with respect to the treatment of those seeking refuge.

But I am disappointed in our decision to allow these people to enter the country and then deny them the means to live. Thousands of people who fled religious and political persecution to seek refuge in the U.S. are being punished by a short-sighted policy. A provision in the 1996 welfare reform bill restricted the amount of time that elderly and disabled refugees and asylees could be eligible for Supplemental Security Income, SSI, benefits. These benefits serve as a basic monthly income for individuals who are 65 or older, disabled or blind. Over the next 4 years, it is estimated that 40,000 refugees and asylees could lose these important benefits on which they often rely.

The 7-year time limit on SSI benefits for legal humanitarian immigrants has already impacted families across the country, and will impact thousands more without Congressional action. The provision specifically mandated that to avoid losing this important support, refugees and asylees must become citizens within the 7 year limit. Unfortunately, this has proved impossible for far too many. The process of becoming a citizen only truly begins after a refugee has resided in the U.S. for 5 years as a lawful permanent resident. And beyond that, there are many other barriers in the naturalization process—too often the most vulnerable elderly and families—began to lose their SSI benefits with no hope of recourse.

This inherent flaw in the system has to be changed. That is why we are reintroducing the SSI Extension for Disabled and Elderly Refugees Act. This legislation extends the amount of time that refugees and asylees have to become citizens to 9 years. In addition, the bill contains a “reach back” provision: it retroactively restores benefits to those individuals who have already lost them for an additional 2 years. This provision helps the individuals who need it most; humanitarian immigrants who are trapped in the system and have lost this important income support.

Across the country, states are recognizing the peril that faces individuals who lose these benefits. Most recently, in January, the State of Illinois passed legislation that allows individuals to obtain monthly grants through a State program, if their Federal SSI benefits are suspended. This action highlights the need for Congress to act. We cannot continue to pass the buck to cash-strapped States. I believe we must act now to protect these individuals.

I cannot stress how important this legislation is to many in the State of Wisconsin. Last year there were several stories across the state regarding the plight of Hmong families and individuals whose SSI have been delayed and were faced with losing their benefits. That was a year ago, and Congress failed to pass the legislation that Senators SMITH, LUGAR, FEINGOLD and I had worked so hard on. We cannot let another year pass by without helping these individuals.

In addition to the Hmong population in Wisconsin, almost every State in the
country is home to immigrants who will be affected by the limit. Our country has long been a symbol of freedom, equality and opportunity. Our laws should reflect that. Every day that goes by could result in the loss of a refugee's support system—I urge my colleagues to support this legislation and restore the principles we were put here to protect.

By Mr. COLEMAN (for himself and Mr. BINGAMAN):

S. 455. A bill to amend the Mutual Educational and Cultural Exchange Act of 1961 to facilitate United States openness to international students, scholars, scientists, and exchange visitors, and for other purposes; to the Committee on Foreign Relations.

Mr. COLEMAN. Mr. President, today I am introducing legislation to reverse the decline in the number of international students studying at American colleges, universities, and high schools. I am very pleased to be joined by my friend and colleague, Senator BINGAMAN, who cares deeply about these issues as I do.

Policies implemented to keep our country safe in the wake of September 11 have had the unintended consequence of dramatically reducing the number of international students studying in the United States. Total international applications to U.S. graduate schools fell 28 percent from fall 2003 to fall 2004, and 54 percent of all English as a Second Language (ESL) programs have reported declines in overall applications at a time when countries such as the U.K., Canada, and Australia are experiencing increases.

Why is this a concern for our country?

From a foreign policy perspective, America needs all the Ambassadors of goodwill we can get. In a world that too often hates Americans because they believe us, international education represents an opportunity to break down barriers. It is in our local and national interest for the best and brightest foreign students to study in America, because those are the people who will lead their nations one day. The experience they gain with our democratic system and our values gives them a better understanding of what America is and who Americans are.

My caseworkers in Minnesota have dealt with literally hundreds of student visa cases. One case in particular stands out—that of Humphrey Tusingwe. The brilliant student from Uganda who was having difficulty getting his student visa for study at St. Thomas. Fortunately, after several calls to the U.S. Ambassador, Humphrey’s story ultimately had a happy ending, and he is going to be part of our panel at the University of Minnesota. But too many other students are barred from coming to study in America. Far too many are choosing not to study in the U.S. and instead go elsewhere.

I have heard from Minnesota’s colleges and universities. The presence of international students gives American students an irreplaceable opportunity to learn about other cultures and points of view. That’s why this legislation has the endorsement of the University of Minnesota, the MnSCU student association, the Minneapolis Star Tribune and Rochester Post Bulletin, and others. International education serves vital and longstanding national foreign policy, educational, and economic interests, our economy and our national security.

At the same time, laws are in place to make sure companies hire American workers first, and my legislation would not change that. I will introduce legislation, the COMPETE Act, that will make sure American students have the math, science, and engineering skills needed to stay competitive. While the Department has made some very important strides, such as extending the validity of Visas Mantis security clearances and speeding up their processing time, there are still too many students who are not able to get visas to study in America, and too many who today are deterred from even applying.

That’s why I do their research here, and to continue to use their talents to improve American innovation and ultimately create American jobs. Many of America’s most innovative business leaders and top CEOs came to the U.S. as international students.

Finally, I think this is an economic competitiveness issue too. Attracting the world’s top scientific scholars helps to keep our economy competitive. Too many of the world’s best scientists are opting against studying in the U.S. because of the barriers we have imposed. We need the world’s best and brightest to come to America and to join with my friend the Senator from New Mexico in introducing the American Competitiveness Through International Openness Now (ACTION) Act. Our bill calls for a number of steps that would help America regain our place as the top destination for international students, scholars, scientists and exchange visitors.

First, it calls for a strategic marketing plan similar to strategies implemented by the U.K., E.U., Canada and Australia to help America regain lost ground in attracting the world’s best and brightest. There is a perception around the world that America is no longer a welcoming place, so we need to be deliberate and smart in our efforts to change that view.

The bill calls for more realistic standards for visa evaluations by updating a 50-year old criterion for visa approval and admissability to the United States. Under the so-called 214(b) rule, young people currently need to prove that they have “essential ties” to their home countries and no intention of emigrating to the U.S. But in this age of globalization, it is increasingly difficult for anyone to do this. Many have lived and studied in other countries, and some have lost their parents to AIDS. They don’t own a house or a business, they don’t have spouses or children, so it’s very difficult for every student to act as an intending immigrant, and it is exceedingly difficult for a student to prove otherwise.

Our legislation calls for commonsense changes to management of the SEVIS system, which tracks international students and visitors. Under this legislation, the database would be managed more effectively, and fees would be collected in a more fair manner.

The bill also sets standards for more timeliness and certainty in the student visa process, upgrading communication between government agencies dealing with student visas and enabling them to identify security risks and clear those who are not a threat more quickly.

I spent time in Minnesota last Friday listening to my constituents’ views about this bill and the positive effect it would have on Minnesota colleges and universities. The response was overwhelming. These summits prompted me to add a section to the bill dealing specifically with students who have to return home for family emergencies, and a section to help intensive English programs compete with their counterparts in the U.K. and Australia.

We have often seen that prejudice is bred by isolation. Those who only look at this country through a keyhole can never know the full story of conclusions. But exposure and interaction bring people together. Especially in a time when we are burdened with the question, “Why do they hate us?” we need to enhance those opportunities for people to see us as we really are. International exchanges present precisely this opportunity.

International education brings too much to our campuses, our communities, our economic security to become another victim of the age of terrorism. If we can take ACTION to reverse the decline now, all Americans will reap the benefits for decades to come.

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. 455

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 “American Competitiveness Through International Openness Now Act of 2005” or as the “ACTION Act of 2005”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States has a strategic interest in encouraging international students, scholars, scientists, and exchange visitors to come to the United States to conduct research, and to develop personal relationships.

(2) Openness to international students, scholars, scientists, and exchange visitors serves vital and longstanding national foreign policy, educational, and economic interests and the erosion of such openness undercuts the national security interests of the United States.

(3) Educating successive generations of future world leaders has never been a foundation of the United States international influence and leadership.

(4) Open scientific exchange enables the United States to benefit from the knowledge of the world’s top students and scientists and has been a critical factor in maintaining the
United States leadership in science and technology.

(5) International students studying in the United States and their families contribute nearly $21 billion to the United States economy each year, making higher education a major service sector export.

(6) The total number of applications submitted by foreign applicants to graduate schools in the United States for enrollment during the fall of 2004 declined 28 percent from the number of such applications submitted for enrollment during the fall of 2003.

(7) The total number of foreign students enrolled in graduate schools in the United States during the fall of 2004 declined 6 percent from the number of such enrollments during the fall of 2003.

(8) The number of foreign students enrolled in schools in the United States during the 2002-2003 academic year decreased by 2.4 percent from the number of such students the 2002-2003 academic year, marking the first absolute decline in foreign enrollments since the 1971-1972 academic year.

(9) The policies implemented by the United States since November 11, 2001, and the public perceptions they have engendered, have discouraged foreign students and scholars from studying in the United States and have frustrated the efforts of many foreign scholars and exchange visitors from visiting the United States.

(10) The United States must improve its student, scholar, scientist, and exchange visitor screening process to protect against terrorists seeking to harm the United States.

(11) The United States has seen a dramatic increase in requests for Visa Mantis checks, checks designed to protect against illegal transfer of sensitive technology, from approximately 1,000 in fiscal year 2000 to approximately 18,500 in fiscal year 2004.

(12) Concerns related to the international student visa admissions system, known as "SEVIS" have also contributed to the decline in the number of foreign applicants to educational institutions in the United States.

(13) Other countries have instituted aggressive strategies for attracting foreign students, scholars, and scientists, and have adjusted their immigration policies to accommodate access to universities and scientific exchange. One such country, Australia, has increased the number of foreign students in educational institutions in Australia by more than 53 percent since 2001.

(14) The European Union has set forth a comprehensive strategy to be the "most competitive and dynamic knowledge-based economy in the world" by 2010. Part of this strategy is aimed at enhancing economic competitiveness by making the European Union the most favorable destination for students, scholars, and researchers from other regions of the world.

(15) In order to maintain United States competitiveness in the world economy, build vital relationships with future world leaders, and improve popular perceptions of the United States, the United States requires a comprehensive strategy for recruiting foreign students, scholars, scientists, and exchange visitors.

SEC. 3. DEFINITIONS.

In this Act—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) SEVIS.—The term "SEVIS" means the U.S. government visa and immigration foreign nonimmigrant foreign students and other exchange program participants required by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104-208; 110 Stat. 3009-546).


The Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"SEC. 115. STRATEGIC PLAN FOR INTERNATIONAL EDUCATIONAL EXCHANGE.

"(1) REQUIREMENT FOR PLAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the ACTION Act of 2005, the President, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of Homeland Security, and the Secretary of Energy, shall submit a strategic plan for foreign students, scholars, scientists, and exchange visitors to the United States for study and exchange activities.

"(2) CONTENT.—The strategic plan shall include the following:

"(A) A marketing plan that utilizes the Internet and other media resources to promote and enhance the presence of the United States in the world by 2010. Part of this comprehensive strategy is aimed at enhancing economic competitiveness by making the European Union the most favorable destination for students, scholars, and researchers from other regions of the world.

"(B) A clear division of responsibility that eliminates duplication and promotes inter-agency coordination of the efforts of the Departments of State, Commerce, Education, Homeland Security, and Energy in promoting and facilitating access to the United States for foreign students, scholars, scientists, and exchange visitors.

"(C) A mechanism for institutionalized coordination of the efforts of the Departments of State, Education, and Homeland Security in facilitating access to the United States for foreign students, scholars, scientists, and exchange visitors.

"(D) A plan for the educational advising centers of the Department of State that are located in foreign countries to promote study in the United States and to prescreen visa applicants.

"(E) A description of the lines of authority and responsibility for foreign students in the Department of Commerce.

"(F) A description of the mandate related to foreign student and scholar access to educational institutions in the United States for the Department of Education.

"(G) Streamlining processes within the Department of Homeland Security related to foreign students, scholars, scientists, and exchange visitors.

"(H) Strengthened procedures to facilitate international scientific collaboration.

"(2) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of enactment of the ACTION Act of 2005, the President shall submit the strategic plan to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

"(3) RECIPROCITY AGREEMENTS.—It is the sense of Congress that the United States should negotiate reciprocity agreements with foreign countries with the goal of mutual agreement on extending the validity of student and scholar visas for 4 years and permitting multiple entry on student and scholar visas.

"(4) ANNUAL REPORT.—

"(1) REQUIREMENT.—The President, acting through the Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Homeland Security, and the Secretary of Energy, shall submit to Congress an annual report on the implementation of the strategic plan required by this section (a) and on any negotiations with foreign countries related to the reciprocity agreements referred to in subsection (b).

"(2) CONTENT.—An annual report submitted under this subsection shall include a description of the following:

"(A) Measures undertaken to enhance access to the United States by foreign students, scholars, scientists, and exchange visitors.

"(B) Measures taken to negotiate reciprocal agreements referred to in subsection (b).

"(C) The number of foreign students, scholars, scientists, and exchange visitors who applied for visas to enter the United States, disaggregated by applicants' fields of study or expertise, the number of such visa applications that are approved, the number of such visa applications that are denied, and the reasons for such denials.

"(D) The average processing time for an application for a visa submitted by a foreign student, scholar, scientist, or exchange visitor.

"(E) The number of applications for a visa submitted by foreign students, scholars, scientists, or exchange visitors that require inter-agency review.

"(F) The number of applications for a visa submitted by foreign students, scholars, scientists, or exchange visitors that were approved after receipt of such applications in each of the following:

"(i) Less than 15 days.

"(ii) Between 15 and 30 days.

"(iii) Between 31 and 45 days.

"(iv) Between 46 and 60 days.

"(v) Between 61 and 90 days.

"(vi) More than 90 days.

"(G) RECIPROCITY AGREEMENTS.—It is the sense of Congress that the United States should negotiate reciprocity agreements referred to in subsection (b).

"(H) REPORT ON IMPROVING FEE COLLECTION.—Not later than 60 days after the date of enactment of the ACTION Act of 2005, the Secretary of Homeland Security shall report to Congress on the feasibility of—

"(i) entering data into the SEVIS database and collecting the fee required by section 611(e) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1372(e)) only after the applicant's visa has been approved; or...
(2) refunding the fee required by such section in the event that the applicant’s visa has been denied.

SEC. 6. REFORMING SEVIS DATABASE MANAGEMENT.

(a) IN GENERAL.—The Secretary of Homeland Security and the Secretary of State shall—
(1) develop policies that permit authorized representatives of SEVIS-approved schools or programs to make corrections to a student, scholar, or exchange visitor’s record directly in the SEVIS database;
(2) in the case of such corrections that cannot be made by such representatives, ensure that sufficient resources are made available to enable such corrections to be made in a timely manner;
(3) develop policies to prohibit the detention or deportation of a student who is found to be out of status as a result of a SEVIS database error; and
(4) review the regulations and technology used in the SEVIS system, in order to streamline processes and reduce the time required for SEVIS-approved universities and programs to perform data entry tasks.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of State shall jointly submit to the appropriate congressional committees a report on the implementation of this section.

SEC. 7. INTEROPERABLE DATABASE SYSTEMS.

(a) RESPONSIBILITIES OF THE FEDERAL BUREAU OF INVESTIGATION.—The Director of the Federal Bureau of Investigation shall take the steps necessary to ensure that the Federal Bureau of Investigation has full connectivity to the Consular Consolidated Database.

(b) REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of Representatives on the Director’s progress in ensuring that the Federal Bureau of Investigation has full connectivity to the Consular Consolidated Database.

SEC. 8. FACILITATING ACCESS.

(a) FINDING.—Congress finds that improvements in visa processing would enhance the national interest of the United States in—
(1) permitting closer scrutiny of visa applicants who might pose threats to national security;
(2) permitting the timely adjudication of visa applications of those whose presence in the United States serves important national interests;
(3) making programs to perform data entry tasks.

(b) REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish final regulations for inter-agency review of visa applications requiring security clearances which establish a 30-day standard for timeliness for international student, scholar, scientist, and exchange visitor visas that—
(1) establish a 15-day standard for responses to the Department of State by other agencies involved in the clearance process;
(2) establish a 30-day standard for completing the entire inter-agency review and advising the consulate of the result of the review;
(3) provide for expedited processing of any visa application with respect to which a review is not completed within 30 days, and for advising the consulate of the delay and the estimated processing time remaining; and
(4) establish a process to resolve any cases whose resolution is still pending after 60 days.

(c) STANDARDS FOR VISA EVALUATIONS.—
(1) IN GENERAL.—Section 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended by striking “subsequent” and inserting “having the intention, capability, and sufficient financial resources to complete a course of study in the United States”;
(2) the feasibility of expediting visa processing for international students, scholars, scientists and exchange visitors, and for data-base improvements in the Federal Bureau of Investigations as specified in section 7.

Mr. BINGAMAN. Mr. President, I rise today, along with Senator COLEMAN, to introduce the American Competitive-ness Through International Openness Now (“ACTION”) Act of 2005.

A few days ago, I came to the Senate floor to discuss the importance of the United States taking steps to ensure that we remain the world leader in terms of scientific research and innovation. There is a global competition underway for dominance in science and technology, and I remain concerned that the federal resources we are allocating for research and development are completely insufficient. At a time when other countries are investing more in R & D, we are cutting back Federal support of key science programs. Our Nation’s economic competitiveness depends on reversing this trend.

We must also do all we can to continue to develop a highly skilled domestic workforce. It is paramount that we improve math and science education in our schools so that we can spend more on graduate education in science and engineering. Maintaining the world’s best education system is essential for ensuring Americans well-paying jobs and critical for our economic and national security.

Another area that we must also address in order to ensure U.S. competitiveness in the world economy is visa processing for scientists, engineers, and students wishing to come to the United States. Reforming our visa system, although improving, still plague our overseas embassies and threaten our long-term economic security.

The ACTION Act of 2005 would address this important issue.

A country’s immigration system helps determines its relationship to the global marketplace. The system can either be conducive to the free flow of ideas, scientists, and international business ventures, or it can provide disincentives for international talent and scientific collaboration.

Since September 11, the United States has adopted a number of visa policies aimed at making the United States and the traveling public more secure. Unfortunately, those policies have also had a significant impact on scientific collaboration with other countries and have made it problematic for exchange students to come to the United States with the ease they once enjoyed. While the United States has an obligation to the roughly 200,000 visa applicants, we need to find ways to do so that keep us engaged with the rest of the world and keep our efforts
focused on those that seek to do us harm.

Our international economic competitors are taking proactive steps to encourage highly talented students and graduates to come to their countries and study in their universities. In contrast, the attitude that the United States seems to be projecting is one of complacency. This not only damages our image abroad, but also hampers research in the nation’s laboratories.

Recent studies from the National Science Foundation and the Council of Graduate Schools, as well as State Department statistics, have documented a sharp decline in the foreign students seeking advanced scientific and technical degrees in graduate schools across the United States. The National Science Foundation has found that the combination of an overly restrictive U.S. policy towards issuing visas, the growing perception that the United States is hostile to foreigners, and the increase in opportunities overseas has significantly challenged our ability to attract the best and brightest from around the world to come to the U.S. to study and engage in open scientific exchange.

The 2003–2004 academic year marked the first absolute decline in foreign student enrollments since the early 1970’s. And in the fall of 2004, international student applications to graduate schools dropped 28 percent from the same time in 2003.

In contrast, other countries have instituted aggressive strategies for attracting students, scholars, and scientists and have sought to encourage access to universities and promote scientific collaboration. One such example is Australia, which has increased international student enrollment by 53 percent since 2001. The European Union has developed a comprehensive strategy to be the “most competitive and dynamic knowledge-based economy in the world” by 2010. A key part of this strategy is aimed at making the E.U. the most favorable destination for students, scholars, and researchers from around the world.

Our university system is the envy of the world, and where we have a long-standing record of producing the best trained and most innovative scientists and engineers, and we must not concede our leadership in this area.

It is also important to note that international students play an important economic role—the Institute of International Education recently determined that through tuition and living expenses, foreign students contribute roughly $13 billion to the U.S. economy.

In particular, the ACTION Act of 2005 would help keep international students and scientist coming to the United States to participate in essential research and exchange programs by: improving visa processing in a manner consistent with national security; requiring the President to develop a strategic plan to enhance the recruitment and access of students, scholars, and scientist coming to the United States; reforming the SEVIS system, which tracks students, to allow approved schools to make corrections to a student’s record; and by facilitating that the FBI and the State Department develop interoperable data systems.

Openness to international students and scientist is an important aspect of maintaining American competitiveness in the world economy, and I ask my fellow colleagues to join me in supporting this essential bill.

By SMITH (for himself, Mr. JEFFORDS, Mr. CHAFEE, Mr. ROCKEFELLER, and Ms. COLLINS):

S. 456. A bill to amend part A of title IV of the Social Security Act to permit a State to count toward the work requirements under the temporary assistance for needy families program for recipients who are determined by appropriate agencies working in coordination to have a disability and to be in needed activities; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the Pathways to Independence Act of 2005, along with Senators JEFFORDS, CHAFEE, ROCKEFELLER, and COLLINS. This bill includes two important provisions that we will work to include in TANF reauthorization. These provisions will help States work with TANF recipients who have disabilities to transition them into work.

In July 2002, the General Accounting Office reported that as many as 44 percent of TANF families have a parent or child with a physical or mental impairment. This is almost three times as high as among the non-TANF population in the United States. In eight percent of TANF families, there is both a parent and a child with a disability; among non-TANF families, this figure is one percent. The GAO’s work confirmed the findings of earlier studies, including work by the Urban Institute and the HHS Inspector General.

These figures mean that we need to make sure that TANF reauthorization legislation gives States the ability and incentives to help families meet their needs and move them towards independence, so that they can gradually increase the work activity they will need to succeed in a work setting. This is the lesson that Oregon and many other States have already learned as they developed and refined their TANF programs.

The first provision of my bill provides a pragmatic approach to helping parents with disabilities and substance abuse problems receive the treatment and other rehabilitative services they will need to succeed in a work setting. It is designed so that, over time, States can gradually increase the work activity requirements, while continuing to provide clients with rehabilitative services. Under this proposal, much like in other proposals under consideration, a person participating in rehabilitation can be counted as engaged in work activity for three months. After the first three months, if a person continues to need rehabilitative services, the State can continue to count part or all of the required services for another three months, so long as that person is engaged in some number of work hours, to be determined by the State.

The next step of my proposal builds on the concept of partial credit that is being considered in the Senate Finance Committee. If, after six months, a State determines that a person has a continuing need for rehabilitative services, the State may create a package that combines work activity with these services. The State will receive credit for the individual’s efforts so long as at least one-half of the hours in which the individual participates are in core work activities. For example, if a State requires a 30-hour per week schedule, the person who works 30 hours per week, and the State has determined that an individual needs rehabilitative services beyond six months, that individual would need to be engaged in core work activities at least 15 hours per week to get full credit, with the remaining 15 hours spent in rehabilitative services. Similarly, if partial credit is available for a person who works 24 hours per week, then a State could receive that same partial credit if the person was engaged in core work activities at least 12 hours per week, with the remaining 12 hours spent in rehabilitative services.

This approach is appealing for many reasons. First, it allows States to design a system in which a person can move progressively over time from rehabilitation toward work. Second, it gives states credit for the time and effort they will need to invest to help people move successfully from welfare to work by allowing States to use a range of strategies to meet their need for financial support. Finally, this approach is appealing because it is designed to work within the structure of the final TANF reauthorization bill.

I look forward to working with my colleagues Senators JEFFORDS, CHAFEE, ROCKEFELLER, and COLLINS, and with the Chairman of the Finance Committee on these important provisions in the upcoming months, and I urge my colleagues to join us in support of this legislation.

I also wish to thank all of the organizations that have expressed support for this bill. I have received support letters from those organizations, and I ask unanimous consent that those letters be printed in the Record.

I ask unanimous consent that the text of this bill be printed in the Record.
There being no objection, the material was ordered to be printed in the Record, as follows:


Hon. Gordon Smith, Senate, Washington, DC.
Hon. Susan M. Collins, Senate, Washington, DC.
Hon. John D. Rockefeller IV, Senate, Washington, DC.
Hon. James M. Jeffords, Senate, Washington, DC.
Hon. Lincoln D. Chafee, Senate, Washington, DC.

Dear Senators Smith, Jeffords, Collins, Chafee, and Rockefeller: We are writing to thank you for introducing legislation that addresses a key problem facing TANF families with a parent with a disability. We believe that this provision, as included in the S. 6. The current Senate version of the PRIDE Act allows states to count rehabilitative services towards the work participation rate for up to six months, as long as some core work activity is combined with the rehabilitative services in the second three-month period. The Smith-Jeffords bill builds on this and would allow states to count participation in rehabilitative activities beyond six months, so long as the individual participates in at least one-half of the required core work activity hours. The bill also would encourage states to work collaboratively with other agencies that have expertise identifying or developing appropriate service plans to address those disabilities.

The encouragement of collaboration is a critical component of the bill. It is our experience that many states have used the flexibility of current law to begin developing such collaborative approaches working with families who face multiple barriers to employment and independence. However, we are concerned that the increased participation rate requirement contemplated in TANF reauthorization proposals will discourage states from continuing such collaborative approaches to helping families progress on the pathway to independence. Unless states are provided more flexibility in determining what activities count towards the participation rate we fear states that are already providing critical services will no longer be able to provide them.

For example, last year, the Vermont Vocational Rehabilitation Agency, working in conjunction with the state’s TANF agency, reported that it had recently assisted 103 recipients with disabilities in achieving successful employment (defined as stable employment for 90 days). Only 14 of the 109 TANF recipients with disabilities (or 12.8 percent) achieved stable employment in six months or less. Without flexibility to go beyond six months in providing rehabilitative services to people with disabilities, as proposed by the Smith-Jeffords bill, Vermont would have risked penalties by offering rehabilitative services beyond six months and
of the 109 TANF recipients with disabilities would have been unlikely to receive the services they needed to become successfully employed.

Similarly, drug and alcohol treatment programs that serve women with children, including women receiving TANF assistance, generally do not exceed six months of services. Indeed, 54 percent of the family-based treatment programs extend beyond six months and demonstrate successful outcome improvements for parents achieving lasting sobriety and family stabilization. Family-based treatment programs combine job training, parenting classes, education, and life skills training in their substance abuse treatment plans. These programs also include employment as an essential aspect of the treatment plan, when a particular individual is ready to engage in work. Allowing individuals time to complete treatment is critical. An Oregon study showed that those who completed drug treatment received wages 65 percent higher than those who did not. Nationally, SAMHSA research demonstrates that the longer parents stay in substance abuse treatment programs the more likely they are to succeed. Of parents who stayed in treatment for more than six months, 71 percent achieved sustained recovery as treatment as well as six months post-discharge.

The goal should be to help parents with disabilities, including substance abuse problems, including whatever help they need—for however long they need, as determined by the state and local agencies working together—to help them successfully move from welfare to work. Allowing states to receive credit for only a limited number of months of rehabilitative services will mean that some parents do not get the intensive help they need for sobriety.

We are also quite concerned that many of the families who are unable to obtain the services they need will end up in the child welfare system. It is the most disadvantaged families, those with barriers such as mental or physical disabilities or problems with substance abuse, who are at greatest risk of making the transition into the child welfare system.

Thus, neither families nor states can afford an inflexible and ineffective approach to addressing barriers in the TANF program. States must be permitted to count participation in activities that help parents with disabilities achieve sobriety participate in the workplace and care for their children, for as long as those activities are needed to help the family progress towards greater independence. One way of helping that your bill provides this needed flexibility and will encourage state agencies to work collaboratively in assisting these families. Thank you again for introducing this legislation.

Sincerely,

Alliance for Children and Families
American Academy of Child and Adolescent Psychiatry
American Association on Health and Disability
American Counseling Association
American Dance Therapy Association
American Federation of Teachers
American Humane Association
American Music Therapy Association
American Federation of Teachers
American Dance Therapy Association
American Counseling Association
American Association on Health and Disability
Bazelon Center for Mental Health Law
Black Administrators in Child Welfare Inc.
Brain Injury Association of America
Center for Law and Social Policy
Center on Budget and Policy Priorities
Children's Defense Fund
Children's Healthcare Is A Legal Duty Coalition on Children's Rights
Community Anti-Drug Coalitions of America
Council for Exceptional Children
Council of Learned Disabilitiests
Council of State Administrators of Vocational Rehabilitation
Easter Seals
Epilepsy Foundation
Epidemiological Community Services
Goodwill Industries International
Helen Keller National Center
Legal Action Center
Legal Momentum
Lutheran Services in America
National Alliance of Children's Trust and Prevention Funds
National Alliance to End Homelessness
National Association of Social Workers
National Association of the Deaf
National Association of School Psychologists
National Association of State Mental Health Program Directors
National Association of State Head Injury Administrators
National Association for Children of Alcoholics
National Association for Children's Behavioral Health
National Child Abuse Coalition
National Coalition on Deaf-Blindness
National Council of La Raza
National Council on Alcoholism & Drug Dependence
National Education Association
National Indian Child Welfare Association
National Law Center on Homelessness and Poverty
National Mental Health Association
National Rehabilitation Association
National Respite Coalition
NISH
Paralyzed Veterans of America
Protestants for the Common Good
Research Institute of Independent Living
School Social Work Association of America
The Arc of the United States
Therapeutic Communities of America
United Cerebral Palsy
Union for Reform Judaism
Voices for America's Children
Women of Reform Judaism
YWCA USA

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 “Pathways to Independence Act of 2005.”

SEC. 2. STATE OPTION TO RECEIVE CREDIT FOR RECIPIENTS WHO ARE DETERMINED BY APPROPRIATE AGENCIES WORKING IN COORDINATION TO HAVE A DISABILITY AND TO BE IN NEED OF SPECIALIZED ACTIVITIES.

(a) In general.—Section 407(c)(2) of the Social Security Act (42 U.S.C. 607(c)(2)) is amended by adding at the end the following:

“(E) STATE OPTION TO RECEIVE CREDIT FOR STATE option to receive credit for recipients who are determined by appropriate agencies working in coordination to have a disability and to be in need of specialized activities:

(1) initial 3-month period.—At the option of the State, if the State agency responsible for administering the State program funded under this part determines that an individual described in clause (iv) is able to meet the State's full work requirements, but is engaged in activities provided under this title, the State may receive credit for the month in which the individual was engaged in work and the number of hours that the individual participated as described in subsection (d) for such number of hours per month as the State determines appropriate.

(2) additional 3-month period.—At the option of the State, the State may extend the 3-month period under clause (i) for an additional 3 months only if, during such additional 3-month period, the individual engages in rehabilitative services prescribed by the State and work activity described in subsection (d) for such number of hours per month as the State determines appropriate.

(3) rules for credit in succeeding months.—

“(I) in general.—If the State agency responsible for administering the State program funded under this part works in collaboration on an individual with disabilities or problems with the individual's disability and continuing need for rehabilitative services after the conclusion of the period applicable under such clause, then for purposes of determining the number of hours engaged in rehabilitative services or work activity described in subsection (d) for such number of hours per month as the State determines appropriate, the State shall receive credit for the month in which the individual was engaged in work and the number of hours that the individual participated in rehabilitative services under this clause for the month.

“(II) credit for activities undertaken through collaborative agency process.—Subject to subsection (III), if the State undertakes to provide services for an individual to whom subsection (I) applies through a collaborative agency process that involves governmental or private agencies with expertise in disability determinations or appropriate services plans for adults with disabilities or problems with their disabilities, the State shall be credited for the number of hours that the individual participated in activities described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month and the number of hours that the individual participated in rehabilitation services under this clause for the month prior to the clause.

“(III) limitation on credit for activities undertaken through collaborative agency process.—Subject to subsection (IV), if the State does not receive credit under this clause towards the monthly participation rates determined under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month.

“(IV) individual described.—For purposes of this subparagraph, an individual described in this clause is an individual who the State agency responsible for administering the State program funded under this part determines that an individual is engaged in work and the number of hours that the individual participated in activities described in paragraphs (1), (2), (3), (4), (5), (6), (7), (8), or (12) of subsection (d) for the month.

“(V) definition of disability.—In this subparagraph, the term ‘disability’ means a...
The current welfare system has been widely regarded as a success in moving individuals off the welfare rolls, and states have been given incentives to do so. While this approach has been regarded as successful, it has one major flaw. Although the states are provided incentives for removing people from the welfare rolls, no incentives exist for placing individuals into sustainable employment. States receive the same credit for moving a welfare recipient into a high paying job as they do for sanctioning that person outright. This perverse incentive has been particularly difficult for the many welfare recipients who have disabilities or struggle with substance abuse problems. In many states it is easier to write these people off than to give them the support necessary to become truly independent.

In Vermont, approximately 15 percent of the welfare caseload has been diagnosed with a disability and receive services from Vermont’s Department of Vocational Rehabilitation. Vermont’s effort to provide these services enables welfare recipients to, move from welfare to work. However, these services are not included in the core work activities allowed under the current welfare system. Vermont’s Department of Vocational Rehabilitation is planning to provide welfare recipients with the tools and incentives necessary to provide welfare recipients with the greatest chance for independence and self-sufficiency. If we truly want to take the necessary steps towards achieving this goal and improving upon our current welfare system, this legislation must be part of any welfare reform reauthorization that is enacted.

The Senate is planning to consider this legislation and their strong letter in support of this initiative. I especially want to thank my colleague from Oregon, Senator Smith, for his support for this legislation and all of our co-sponsors in this endeavor.

S U B M I T T E D R E S O L U T I O N S

SENATE RESOLUTION 58—COMMEMORATING THE HONORABLE HOWARD HENRY BAKER, JR., FORMERLY A SENATOR OF TENNESSEE, FOR A LIFETIME OF DISTINGUISHED SERVICE

Mr. FRIST (for himself, Mr. BYRD, Mr. RIEP, Mr. ALFORD, Mr. COCHRAN, Mr. STEVENS, Mr. DOMENICI, Mr. HATCH, Mr. WARNER, and Mr. LUGAR) submitted the following resolution, which was considered and agreed to:

(1) constitutes or results in a substantial impediment to employment; or
(2) substantially limits 1 or more major life activities.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 2016.

Mr. JEFFORDS. Mr. President, it is a pleasure for me to introduce today, along with my colleagues Senators SMITH, COLLINS, CHAFER, and ROCKEFELLER, the ‘‘Pathways to Independence Act of 2005.’’ This legislation is the product of a bipartisan effort to ensure that those individuals in our welfare system who face the toughest barriers to work, such as individuals with disabilities or substance abuse problems, are provided the best opportunity for future success and productivity. This legislation gives states the tools and incentives necessary to assist them in moving individuals from welfare to work.

The current welfare system has been widely regarded as a success in moving individuals off the welfare rolls, and states have been given incentives to do so. While this approach has been regarded as successful, it has one major flaw. Although the states are provided incentives for removing people from the welfare rolls, no incentives exist for placing individuals into sustainable employment. States receive the same credit for moving a welfare recipient into a high paying job as they do for sanctioning that person outright. This perverse incentive has been particularly difficult for the many welfare recipients who have disabilities or struggle with substance abuse problems. In many states it is easier to write these people off than to give them the support necessary to become truly independent.

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The ‘‘Pathways to Independence Act of 2005’’ would supply the states with the tools and incentives necessary to provide welfare recipients with the greatest chance for independence and self-sufficiency. If we truly want to take the necessary steps towards achieving this goal and improving upon our current welfare system, this legislation must be part of any welfare reform reauthorization that is enacted.

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